

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36603 of 2024

Arising Out of PS. Case No.-60 Year-2019 Thana- MAHILA P.S. District- Araria

Md. Sarwar @ Sarwar, Son Of Md. Sarfaraj Resident Of Village- Pipra Purab
Tola, Panchayat- Bara Istambrar, Ward No.- 07, P.S.- Block Jokihat, Distt-
Araria, State- Bihar, Pin Code- 854329

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Awnish Kumar

For the Opposite Party/s : Mr. Chandra Bhushan Prasad- A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 09-08-2024 1. Heard learned counsel for the petitioner
and learned APP for the State.

2. The petitioner seeks bail in anticipation
of his arrest in a case registered for the offences
punishable under Sections 341, 323, 307, 376(D),
379 and 354(B) of the Indian Penal Code.

3. The learned counsel for the petitioner
submits that the petitioner has antecedent of one
case and the informant alleges that on 05.06.2019
at 7.00 P.M., she went to attend call of nature,
when she was intercepted by the accused persons
including the petitioner and they raped her in turn
on account of which, she became unconscious.



Further, her family members after hectic search found her in an unconscious state and thereafter, she was taken to Sadar Hospital, Araria and then, to the clinic of Dr. Arshad Hussain.

4.The learned counsel for the petitioner submits that petitioner has been falsely implicated in the instant by the informant, who is wife of Md. Sahroop. It is next submitted that petitioner instituted Jokihat P. S. Case No. 235 of 2019 dated 07.06.2019 against the husband of the present informant and others alleging that the accused persons were abusing his cousin sister on 05.06.2019 at 3.00 P.M. and when he objected Sahroop and Sakoor started acting inappropriately with her and also assaulted him and his sister, further, when his cousin brother Afroj and Kayum came to save them along with Bibi Khudena, the accused assaulted them brutally on account of which, Afroj and Kayum became unconscious. Further, they also misbehaved with his wife and snatched the earring of Jasmin.

5.It is next submitted that husband of the



present informant instituted Jokiha P. S. Case No.234 of 2019 dated 07.06.2019 alleging that on 05.06.2019 Musabbir and Kayum started abusing him and when he objected, he was assaulted. Further, on the same date at 7.00 P.M., the accused persons came at the shop of Kabir where he had gone and they assaulted him brutally.

6.The learned counsel next submits that from perusal of three FIRs, it would manifest that the date of occurrence is 05.06.2019 and the present F.I.R. came to be instituted on 08.06.2019 while other two F.I.Rs. were instituted on 07.06.2019. It is further submitted that the F.I.R. instituted by the husband of the informant i.e. Jokiha P. S. Case No. 234 of 2019 records that the occurrence took place at 7.00 P.M. when he was assaulted by the side of the petitioner at the shop of Kabir whereas from perusal of the allegation as alleged in the instant F.I.R., it would manifest that even the informant alleges that she was raped in turn by the accused persons including the petitioner on 05.06.2019 at 7.00 P.M. It is thus



submitted that had the informant of the present case been raped by the accused persons, in that event, the Jokihat P. S. Case No. 234 of 2019, which came to be instituted on 07.06.2019 would have disclosed about the occurrence, but then, that is not the case whereas the instant F.I.R. came to be instituted on 08.06.2019 only to coerce the petitioner into submission as petitioner had instituted Jokihat P. S. Case No. 235 of 2019. It is also submitted that no doubt, the allegation in the instant F.I.R. is serious as the informant alleges that she was raped in turn by the accused persons including the petitioner, but when the allegations are viewed keeping in mind the other two F.I.Rs., as recorded herein above, the falsity of the allegations manifest. It is also submitted that informant has compromised the case as would manifest from the compromise dated 19.02.2024 (Annexure-P/3). It is also submitted that even the injury report of the informant does not specifically corroborate rape as it records that no external injury was found on examination.



7.Learned A.P.P. Sri Chandra Bhushan Prasad opposes the anticipatory bail application.

8.Considering the submissions made by the learned counsel for the petitioner, the petitioner, above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Araria in connection with Mahila P. S. Case No.60 of 2019, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

9.The application stands allowed.

(Satyavrat Verma, J)

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