

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41641 of 2024

Arising Out of PS. Case No.-362 Year-2023 Thana- MOTIPUR District- Muzaffarpur

Dhiraj Kumar, aged about 28 years, Gender- Male, S/o Vishwanath Bhagat @
Vishwanath Prasad R/o Village-Jhingaha,P.S.-Motipur, District-Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Vina Devi W/O-Late Arvindra Rai, R/O vill- Jhingaha, PS- Motipur, Dist.-
Muzaffarpur, Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rama Kant Sharma, Sr. Advocate
		Ms. Preety Kunwar, Advocate
For the Informant	:	Mr. Rakesh Ranjan, Advocate
For the State	:	Mr. Arun Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 04-10-2024 Heard Mr. Rama Kant Sharma, learned senior
counsel assisted by Ms. Preety Kunwar, learned counsel
appearing on behalf of the petitioner; Mr. Rakesh Ranjan,
learned counsel appearing on behalf of the informant and Mr.
Arun Kumar Pandey, learned APP for the State.

2. Petitioner seeks regular bail in connection with
Motipur P.S. Case No. 362 of 2023 registered for offences
punishable under Sections 341, 323, 447, 448, 376 and 511/34
of the Indian Penal Code.

3. As per the allegation made in the FIR, petitioner



had tried to commit rape upon the informant and upon objection of the same, petitioner along with other co-accused persons had assaulted the informant and her family members by means of *Lathi* and iron rod, due to which, they had sustained injuries.

4. Learned senior counsel appearing on behalf of the petitioner submits that petitioner is innocent and due to some dispute, on a false allegation, he has been roped on the present case. Learned senior counsel, upon instruction, further submits that the victim in her statement recorded under Section 164 of the Code of Criminal Procedure, has stated that the petitioner has not committed sexual wrong with her and the offence can only, at the best, said to be under Section 354 of the Indian Penal Code. Petitioner has clean antecedent and he is in custody since 01.05.2024. On these grounds, petitioner seeks to be released on regular bail.

5. Learned counsel appearing on behalf of the informant submits that considering the statement of the victim recorded under Section 164 of the Code of Criminal Procedure, it is clear case of attempt to commit rape and the petitioner don't deserve to be released on bail.

6. Learned A.P.P., for the State has supported the submission made on behalf of the petitioner.



7. Considering the nature of allegation made in the FIR against the petitioner and the period of custody undergone by the petitioner, who is in custody since 01.05.2024, the learned District Court is directed to release the petitioner, above named, on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Ist, Muzaffarpur (West), in connection with Motipur P.S. Case No. 362 of 2023 subject to the following conditions:

(i) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(ii) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(iii) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(iv) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bond.

(v) The learned District Court is directed to verify



the criminal antecedent of the petitioner as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioner as what has been stated in paragraph no. 3, this order will lose its force automatically.

(Purnendu Singh, J)

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