

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46994 of 2024

Arising Out of PS. Case No.-44 Year-2023 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

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GANESH MAHTO SON OF VILASH MAHTO VILLAGE- PREM
NAGAR, P.O.- SHAHI BHALURA, P.S.- AURAI, DISTT.-
MUZAFFARPUR, PIN-843312

... .. Petitioner/s

Versus

1. The State of Bihar BIHAR
2. SHAIL DEVI W.O- KISHORE MAHTO VILLAGE- SHAHI BHALURA,
P.S.- AURAI, DISTT.- MUZAFFARPUR, PIN- 843312

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Prabhakar Nath Rai
For the Opposite Party/s : Mr.Raj Ballabh Singh

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 24-07-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner is apprehending his arrest in connection with Complaint Case No. 44 of 2023 registered for the offences punishable under Sections 323, 341, 354(A), 448, 504 of the IPC and Section 8 of the POCSO Act.

3. As per prosecution case, petitioner is said to have tried to outrage the modesty of complainant's daughter and when same was protested, the petitioner assaulted the complainant's daughter upon the stomach as a result of which she fell down unconscious and blood started oozing out from her private part.



4. Learned counsel for the petitioner submits that there is land dispute between the parties and proceeding under Section 107 of the Cr.P.C. is going on between the parties in Sub-divisional Office, East Muzaffarpur. Learned counsel further submits that report submitted by Sub Inspector of Police, Muzaffarpur before Sub-divisional Officer, Muzaffarpur, East reveals that on the actual date of occurrence petitioner was driving the truck in Ara. He further submits that the injury report also does not reveal any specific injury, as same is evident from page-17 and 18 of the petition. There is no visible injury found in the injury report of doctor. No evidence regarding age of the victim was produced by the complainant which is mandatory before taking cognizance. He further submits that due to land dispute, petitioner has been falsely implicated in this case. Petitioner bears no criminal antecedent. He further submits that in view of the above facts, whole prosecution case is false and concocted and has been lodged with ulterior motive.

5. Learned counsel for the complainant and learned A.P.P. for the State oppose the prayer for anticipatory bail of the petitioner.

6. Considering the facts and circumstances of the case, keeping in view clean antecedent of petitioner, argument



advanced on behalf of both sides and also taking into consideration the material available on record, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-6 cum Special Judge, POCSO-1, Muzaffarpur in connection with POCSO Complaint Case No. 44 of 2023, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

7. The application stands allowed.

(Alok Kumar Pandey, J)

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