

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53592 of 2024

Arising Out of PS. Case No.-104 Year-2023 Thana- MAHILA PS District- Darbhanga

Md. Mehbub @ Md. Mahboob Son Of Md. Mansur @ Md. Mansoor Village-
Bhadaul Ps- Kusheshwar Sthan, Distt- Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar
2. Najma Khatoon Daughter Of Md. Nawab Village- Bhadaul, Ps- Kusheshwar,
Asthan, Dist- Darbhanga

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dr Abdus Shakoor

For the Opposite Party/s : Mr. Chandra Sen Prasad Singh

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 23-09-2024 1. Heard learned counsel for the petitioner, learned
APP for the State and the learned counsel appearing on behalf of
the informant.

2. The petitioner seeks bail in anticipation of his
arrest in a case registered for the offences punishable under
Sections 376, 313, Section 506 and 34 of the Indian Penal Code
and Section 4 and 6 of the POCSO Act.

3. The learned counsel appearing on behalf of the
petitioner submits that the informant alleges that petitioner
about an year back, entered her house and on point of knife,
raped her and thereafter, putting her under fear used to rape her,
on account of which she became pregnant, but, since she was



unmarried, as such, her mother took her to a doctor, where her pregnancy was terminated. It is further alleged that thereafter also the petitioner continued maintaining forceful physical relations and even pressurized her to establish physical relation with his friends.

4. The learned counsel appearing on behalf of the petitioner submits that the petitioner has been falsely implicated in the instant case by the informant. It is next submitted that even the allegations as alleged in the FIR does not inspire confidence for the reason that though the informant alleges that she was taken to a doctor, where her pregnancy was terminated, but then neither the name of the doctor or hospital is disclosed.

5. It is also submitted that even the allegation of rape appears to be general and omnibus in nature. It is further submitted that police after threadbare investigation, came to a considered conclusion that petitioner is innocent and thus submitted final Form No. 5 of 2024 dated 12.01.2024 (*Annexure-10*), exonerating the petitioner of the allegation but then the learned Magistrate differing with the police report took cognizance. The learned counsel thus submits that when one investigating agency, based on a threadbare investigation, exonerated the petitioner of the charges whether it would be



prudent for the Court to send the petitioner to jail, based on an order of cognizance which came to be taken, based on the same investigation report, which had exonerated the petitioner of the charges.

6. The learned APP for the State and the learned counsel for the informant opposes the anticipatory bail application but then are not in a position to rebut the submission of the learned counsel appearing on behalf of the petitioner, the police after threadbare investigation submitted final form exonerating the petitioner of the allegations as alleged in the FIR.

7. 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 Special Judge (POCSO), Darbhanga in connection with Mahila P.S. Case No. 104 of 2023, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

8. It is made clear that the learned trial court before accepting the bail bonds of the petitioner shall verify the



criminal antecedent of the petitioner and in the event, if it is found that petitioner has antecedent of even one case, in that event, the present anticipatory bail order shall not be given effect.

9. The application stands allowed.

(Satyavrat Verma, J)

Sudhanshu/-

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