

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61627 of 2024

Arising Out of PS. Case No.-366 Year-2024 Thana- SIKARPUR District- West Champaran

Shamsul @ Sheikh Shamsul Hoda @ Samsul Hoda Son of Late Sheikh Moharram @ Late Sheikh Moharram Ali Resident of Village - Block Road, Barwa, P.S. - Shikarpur, District - West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. X (Imaginary name of the informant) Wife of Mahbub Alam Resident of Village - Murli Bharharwa, Badgajwa, P.S. - Gaunaha, District - West Champaran. Present Address - Resident of Near Moin Sahab Madarsa, Narkatyaganj, P.S. - Shikarpur, District - West Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Bimlesh Kumar Pandey, Adv.
For the State	:	Mr.Anant Kumar 1, APP
For the O.P. No.2	:	Mr. Mahtab Alam, Adv.

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

4 14-11-2024 Heard learned counsel for the petitioner and learned APP for the State as also learned counsel for the O.P. No.2. Perused the case diary.

2. The petitioner seeks bail in connection with Shikarpur P.S. Case No. 366 of 2024 instituted for the offences under Sections 341, 323, 376, 504, 34 of the Indian Penal Code.

3. As per prosecution case, the accusation against the petitioner is of committing rape upon the Informant.

4. Learned counsel for the petitioner submits that the



petitioner is innocent and has committed no offence as alleged against him and has falsely been implicated in the present case. The petitioner is the cousin brother of the Informant's husband. He further submits that the date of occurrence is 28.05.2024 but, the F.I.R. was lodged on the basis of typed written report on 01.06.2024 i.e. after delay of four days and, that too, without there being any plausible explanation for such delay which creates doubt in the prosecution case. He further submits that no independent witness has supported the prosecution case. The medical report also does not support the prosecution case. The statement of the victim made under Section 164 Cr.P.C. and the allegation made in the F.I.R. was contradictory to each other. All the sections are bailable except 376 of the I.P.C. which is super addition in this case. There is also no video footage which proves the allegation made in the F.I.R. to be true. He further submits that the Informant is a litigant lady and has filed several cases against many persons. The petitioner has no criminal antecedent and is languishing in judicial custody since 02.06.2024 without any rhyme or reason. Charge-sheet has been submitted in this case.

5. On the other hand, learned A.P.P. for the State and the Informant have vehemently opposed the prayer for grant of



bail to the petitioner, stating that the allegation alleged against the petitioner is serious in nature and, hence, he does not deserve bail.

6. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case as also taking into account the period of custody of the petitioner and the petitioner having no criminal antecedent, let the petitioner, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Shikarpur P.S. Case No. 366 of 2024, subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(iii) If the petitioner tampers with the evidence or the witnesses of the case by intimidating/pressurizing the witnesses,



during the investigation or trial, in that case, prosecution will be
at liberty to move for cancellation of bail of the petitioner.

(Rudra Prakash Mishra, J)

rishi/-

U		T	
---	--	---	--

