

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3510 of 2024

Arising Out of PS. Case No.-148 Year-2019 Thana- BISFI District- Madhubani

Md. Modassir @MD. Murad Son Of Md. Subhani @ Md. Subham Resident
Of Village- Noorchak, Police Station- Bisfi, District- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shabana Khatoon Wife Of Late Rabbani Resident Of Village- Noorchak,
Police Station- Bisfi, District- Madhubani

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha, Advocate

For the Opposite Party/s : Mr. Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-02-2024 Heard Mr. Sanjay Kumar Jha, learned counsel for
the petitioner and Mr. Binod Kumar, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Bisfi P.S. Case No. 148 of 2019, F.I.R. dated 29.05.2019 for the offences punishable under Sections 341, 323, 324, 379, 504, 506/34 of the Indian Penal Code and Section 12 of the POCSO Act but the police after investigation found the allegation not true in POCSO Act and has submitted charge sheet under Sections 323, 504/34 of the Indian Penal Code only. But learned Court below has pleased to take cognizance in this case under Sections 323, 504, 354(B)/34 of the Indian Penal Code and under Section 8 of the POCSO Act.

3. According to prosecution case, the allegation



against the petitioner is that he tried to outrage the modesty of the minor daughter (victim) of the informant. It is further alleged that all the accused persons including the petitioner have assaulted the informant and her daughter by means of knife.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that from perusal of the F.I.R it appears that there is no specific allegation of any assault or overt act against the petitioner rather there is general and omnibus allegation against all the accused persons. He further submits that it appears from the impugned order that the independent witness has not supported the case of the prosecution.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner.

6. Considering the aforesaid facts and circumstances, let the petitioner, above named, in the event of arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-VII-cum-Special Judge (POCSO



Court) Madhubani in connection with Bisfi P.S. Case No. 148 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

i. Petitioner shall co-operate 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 on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

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

iii. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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