

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3397 of 2024

Arising Out of PS. Case No.-533 Year-2023 Thana- DHAKA District- East Champaran

Shekh Ozair S/O Shekh Juman, R/O Vill- Balua, PS-Dhaka, Dist- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate

For the Opposite Party/s : Dr. Mrityunjaya Kr. Gautam, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

- 2 07-02-2024 Heard Mr. Abhishek Kumar, the learned counsel

for the petitioner and Mr. Mrityunjaya Kr.Gautam, the learned

Additional Public Prosecutor for the State.
2. The petitioner is apprehending his arrest in

connection with Dhaka PS Case No. 533 of 2023, FIR dated

18.09.2023, registered for the offences punishable under

Sections 341, 323, 379, 354(B) and 307 read with Section 34 of

the Indian Penal Code.
3. According to prosecution case, the co-villagers of

the informant namely, Shekh Ozair and Shekh Sabbir assaulted

her by means of *iron-rod* and physically on her abdomen and

back and they also snatched Rs. 5,000/- (Rupees five thousand)

from her.
4. Learned counsel for the petitioner submits that

petitioner has falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated and the petitioner has not committed any such offence as alleged. He further submits that upon perusal of the FIR, it appears that the specific allegation of assault is against co-accused namely, Shekh Sabbir and there is no specific allegation of any assault or overt act attributed against the petitioner, rather there is allegation that the petitioner has snatched Rs. 5,000/- from the informant and also hit her with leg. Although, the informant received injury, but the injury report of informant suggests that the injury is simple in nature caused by hard and blunt object.

5. The learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner and submits that the petitioner carries 3 criminal antecedents other than the present one but fairly admits that on the basis of para no. 3 of the bail petition that he has got bail in all the three cases.

6. Considering the aforesaid facts and circumstances and the fact that there is no specific allegation of assault or overt act against the petitioner, rather the same is attributed against the co-accused person, let the petitioner, above named, in the event of his arrest or surrender before the Court below, within a

period of four weeks from the date of receipt of the order, be released on anticipatory 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 Sub-Divisional Judicial Magistrate, Sikrahana, where the case is pending in connection with **Dhaka PS Case No. 533 of 2023**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the 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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