

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65209 of 2024

Arising Out of PS. Case No.-13 Year-2024 Thana- MAHILA P.S. District- Madhubani

Md. Mustakim S/o Md. Hamid R/o vill - Gangapur, P.S. - Lakhnaur, Distt. - Madhubani

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Sabila Khatoon Wife of Sarfe Alam Resident of Village Gangapur, P.S. Lakhnaur Madhubani

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gangandeo Yadav, Advocate Mr. Ravi Prakash, Advocate Mr. Udeshya Kr. Yadav, Advocate Mr. Rajesh Kumar, Advocate Mr. Vinod Kumar, Advocate
For the Opposite Party/s	:	Mr. Tarun Prasad Mandal, APP

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

4 10-04-2025 Heard learned Counsel for the petitioner, learned Additional Public Prosecutor for the State and learned counsel for the informant.

2. The petitioner apprehends his arrest in a case, registered for the offences punishable under Sections 641, 323, 347, 376, 379, 506/34 of the I.P.C and under Section 67 of the I.T. Act.

3. In the F.I.R, the informant/prosecutrix states that on 25.02.2024, the present petitioner had committed rape upon her at gunpoint and also made the video with the threatening that if she would state this matter to anybody else, the video

would be made viral. There was a further threatening that if a case is lodged she would be done to death. There is also an allegation on other members of the family of the petitioner that all of them came to the house of the informant and assaulted her and also took away a box from her house. In the F.I.R. itself, it has been stated that a *panchayti* was to be held, but the same was not agreed upon.

4. Learned counsel for the petitioner submits that the occurrence is said to have taken place on 25.02.2024, whereas the F.I.R. came to be lodged after more than two months on 03.05.2024. He further submits that the petitioner is the *gotiya* of the informant's father-in-law, and due to an earlier dispute, the present case has been lodged against the petitioner. Learned counsel for the petitioner also invites the attention of the Court to an F.I.R. lodged by the same informant on 05.11.2021 against her father-in-law and brother-in-law under Section 354(B) and other sections of the I.P.C., also making an allegation of establishing wrong relations with her and of threatening her. On the strength of such F.I.R., the learned counsel for the petitioner also submits that the petitioner is in the nature of habitual filing of such cases against different persons.

5. Learned APP for the State and also the learned counsel for the informant oppose the prayer for anticipatory bail and submit that the statement of the victim lady was recorded under Section 164 of the Cr.P.C., in which she has supported the allegations.

6. To this the learned counsel for the petitioner responds that the 164 Cr.P.C statement has been recorded in the month of July 2024, which is about five months after the date of occurrence, and he also points out that the story in the 164 statement has been changed to some extent, as the victim has stated that the threatening upon her was on account of the fact that she should be talking to the petitioner and not due to anything else. It would also appear from the said statement of the victim lady that the petitioner is the neighbour of the informant, and further, that the date of occurrence has also been changed to 28.02.2024 from 25.02.2024, as stated in the F.I.R.

7. Taking into consideration all the above mentioned facts and circumstances especially that there is delay in lodging of the F.I.R., the medical report showing no medical evidence of sexual assault as also taking into consideration the changed version of the informant/prosecutrix in her statement

under Section 164 Cr.P.C., let the petitioner, above named, in the event of his arrest or surrender before the Court below within four weeks, 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 learned S.D.J.M. Madhubani in connection with Mahila P.S. Case No. 13 of 2024, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure/Section 482 (2) of the B.N.S.S., 2023 and and subject to the further condition that:-

- (i) the petitioner shall co-operate in the investigation/trial.
- (ii) the learned Court would, however, verify the criminal antecedent of the petitioner before releasing him on bail.
- (iii) family member/relative of the petitioner shall stand surety.

(Soni Shrivastava, J)

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