

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34519 of 2022

Arising Out of PS. Case No.-232 Year-2021 Thana- CHAKIA District- East Champaran

MD ARSHAD @ ARSHAD Son of Md. Asuddin Resident of Village - Shekhi
Chakia, Ward no.12, P.s.- Chakia, Distt.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 39046 of 2022

Arising Out of PS. Case No.-232 Year-2021 Thana- CHAKIA District- East Champaran

ARSHAD ALI Son of Md. Raees Resident of Village - Chotka Khajuria, P.s.-
Kotwa, Distt.- east Champaran, at Present Village - Jasauli, P.s.- Jasauli,
Distt.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 34519 of 2022)

For the Petitioner/s : Mr. Viveka Nandsingh, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

(In CRIMINAL MISCELLANEOUS No. 39046 of 2022)

For the Petitioner/s : Mr. Manish Kumar Singh, Advocate

Mr. Rahul Singh, Advocate

For the Opposite Party/s : Mr. Nagendra Prasad,, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

6 28-06-2023

CRIMINAL MISCELLANEOUS No.34519 of 2022

Heard learned counsel for the petitioner and learned

A.P.P. for the State.

Sri Chandra Bhushan Prasad, learned A.P.P. for the

State submits that the statement of the victim has been received

in a sealed cover, accordingly with permission of the Court the



sealed cover is opened for perusing the statement of the victim under Section 164 of the Cr.P.C.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 376(3) and 34 of the Indian Penal Code, read with Section 6 of the POCSO Act and Section 3(r)(s) of the S.C./S.T. Act.

Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and the informant in her statement recorded under Section 164 of the Cr.P.C. has alleged that on the date of occurrence Tabassum along with petitioner and Arshad Ali came to the house of victim and forcibly took her to the *baswari* where Arshad Ali and the petitioner committed rape.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, it is next submitted that Arshad Ali and the victim were in love and Arshad Ali had gone to meet the victim in the night and when her mother came to know about the same, the present false case came to be instituted. It is further submitted that from perusal of the statement of the victim recorded under Section 164 Cr.P.C. it would manifest that she has stated that after the occurrence she became unconscious but then the injury report does not even



remotely suggest rape, it is next submitted that though the victim is claiming to be a minor but the doctors have opined her age in between 18-19 years and no documentary evidence was brought on record to substantiate the age of the victim rather merely on the statement of the informant it was recorded that the victim was a minor. Learned counsel further submits that it absolutely does not stand to reason that Tabassum would have come along with petitioner and Arshad Ali and thereafter would have forcibly taken the victim to a bamboo clump and would have got the victim raped by the petitioner and Arshad Ali in her presence when the victim claims that Tabassum is her friend. It is next submitted that Arshad Ali with the help of Tabassum used to meet the victim and this fact was not known to the family of the victim and when the said fact came to the notice of the informant, the present false case came to be instituted. Learned counsel further submits that the petitioner will not abscond rather will cooperate in the investigation and will present himself as and when required by the Investigating Officer for eliciting the truth.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

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 from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Chakia P.S. Case No. 232 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

However, it is made clear that in the event if the Investigating Officer files an application before the learned trial court bringing to its notice that the petitioner despite giving assurance to this Court is not cooperating in the investigation or is not presenting himself when required, the learned trial court shall be at liberty to cancel the bail bonds of the petitioner after recording reasons.

CRIMINAL MISCELLANEOUS No. 39046 of 2022

Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 376(3) and 34 of the Indian Penal Code, read with Section 6 of the POCSO



Act and Section 3(r)(s) of the S.C./S.T. Act.

Learned counsel for the petitioner submits that petitioner is a person with clean antecedent, it is further submitted that Md. Arshad has been granted anticipatory bail *vide* order dated 28.06.2023 in Cr. Misc. No. 34519 of 2022 and submissions on behalf of Md. Arshad have been recorded in detail in the said order, it is thus submitted that petitioner be also extended the privilege of anticipatory bail on the same terms and conditions.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

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 from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Chakia P.S. Case No. 232 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

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(Satyavrat Verma, J)

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