

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14364 of 2019**

Arising Out of PS. Case No.-33 Year-2018 Thana- MAHILA P.S District-
West Champaran

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Prem Chandra Khatait aged about 22 years, male, S/o Mahendra Khatait
R/o Village- Mahuawa, P.S- Naurangia, Distt.- West Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Bimlesh Kumar Pandey, Advocate.

For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

2 08-03-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences
alleged under Sections 376/34 of the Indian Penal Code
registered in connection with Bagaha Mahila P.S. Case No. 33 of
2018.

3. It is submitted that the petitioner has been falsely
implicated on the accusation that the petitioner had established
physical relationship with the informant on the pretext of
marriage which he subsequently resiled from. It is submitted that
as a matter of fact it is a case of love affair between the parties to
the knowledge of the parents of both sides for the past about two
years. It is submitted that there is delay of about 24 days in
institution of the F.I.R. on 08.08.2018 for the alleged occurrence
up to 14.07.2018. It is submitted that in any event the accusation
would not constitute the offence of rape, having regard to the
judgment of the Hon'ble Supreme Court in *Uday Vs. State of
Karnataka, AIR 2003 Supreme Court 1639* and the decision in



Criminal Appeal No. 1443 of 2018 (*Dr. Dhruvaram Murlidhar Sonar Vs. State of Maharashtra and Ors.*).

4. Be that as it may, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Bettiah, West Champaran in connection with Bagaha Mahila P.S. Case No. 33 of 2018, subject to the conditions as laid down under Section 438 (2) Cr.P.C., and also subject to the following further conditions:

(i) That one of the bailors shall be a close relative of the petitioner.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(iv) That the petitioner shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(Vikash Jain, J)

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