

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM OFFICIAL CHAMBERS VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.18531 of 2021**

Arising Out of PS. Case No.-191 Year-2020 Thana- PAKRIDAYAL District- East Champaran

Lakha Sah, Son of Lakhindra Sah, Resident of Village- Dhanauji, P.S-
Pakridayal Dist- East Champaran

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Ansul, Advocate
Mr. Anuj Kumar, Advocate
For the Opposite Party/s : Mr. Nirmal Kumar Sinha, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 01-10-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Nirmal Kumar Sinha, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Pakri Dayal P.S. Case No. 191 of 2020 registered for the offence punishable under Section 376/506 of the Indian Penal Code. He is in custody since 08.08.2020. Petitioner has otherwise no criminal antecedent.

As per the prosecution story, the Bhabhi (elder brother's wife) of the petitioner alleged that the informant is living in the house with her children, about six months ago her



brother-in-law (the petitioner) entered into the house of the informant and took out a knife and by putting it on her neck raped her forcibly but the informant remained silent because of shame. It is alleged that after three days of the said occurrence once again the petitioner entered and committed rape on her. Thereafter it was told to the family members and then the family members conducted a conciliation with the petitioner but the petitioner did not listen to the same and he was always threatening the informant and her children and wanted to establish relationship with her.

Learned counsel for the petitioner submits that the entire allegations are to be seen in the background of the fact that the petitioner and the informant both family are living in the same house and there was a dispute over the partition of the ancestral house which led to lodgement of the present case which is totally concocted and baseless.

Learned counsel further submits that the petitioner is the Devar of the informant and being a co-sharer he has been implicated in this case only because of that residential house dispute. The occurrence is said to have taken place about six months back and there was a conciliation as alleged but no such allegation was ever made against the petitioner and no F.I.R.



was lodged in that respect.

It is submitted that now the parties have settled their dispute and they are living separately hence, in the impugned order it has come that they have settled the dispute among themselves.

Mr. Nirmal Kumar Sinha, learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner alleging that the allegations are that of commission of rape on the Bhabhi of the petitioner.

Having regard to the facts and circumstances of the case, considering that both the parties are co-sharers and submission is that the F.I.R. has been lodged in the background of a family dispute over partition of the residential house and further that the petitioner has remained in jail for over one year, investigation against him is complete but the trial is not likely to take place in near future, this Court directs release of the petitioner above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, East Champaran, Motihari in connection with Pakri Dayal P.S. Case No. 191 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.



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.

And further condition that after release on bail, the petitioner shall not come in contact with the informant/victim and her family during trial and violation of this condition shall invite action towards cancellation of bail.

(Rajeev Ranjan Prasad, J)

vats/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

