

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.8782 of 2021**

Arising Out of PS. Case No.-150 Year-2020 Thana- KADWA District- Katihar

Munnu Kumar @ Munnu Singh, son of Garbhu Das, Resident of Village-
Mahammadpur Doasi, Post Office- Durgaganj, Police Station- Kadwa,
District- Katihar.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Jibendra Mishra, Advocate

For the Opposite Party/s : Mr. Parmanand Kumar, APP

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

4 06-08-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail
in connection with Kadwa P.S. Case No. 150/2020 (G.R. No.
3028/2020) registered for the offence under Section 341, 342,
323, 307, 376, 504, 506/34 of the Indian Penal Code and
Section 4/17 of the POCSO Act.

As per the prosecution story, the informant has
alleged that she is a student of Class IX and while she was
sleeping with her younger brother in a room in her house she
heard a call from her verandah calling her father's name, when
she went there and saw four boys namely (1) Suman Kumar
Singh (2) Navin Singh (3) Shrawan Singh and (4) Munnu Singh.
She has further alleged that all the accused persons switched off

the light and co-accused Suman Kumar Singh had tied her mouth with a Gamchha and took her away at the bank of Kamla river where a tempo was standing in which four other persons were present who were also the resident of village Sagrath. She further stated that all the accused persons misbehaved with her and they bite with their teeth on her cheek, chest and also on her private parts. She further alleged that Navin Singh had taken out a knife and threatened the informant to kill if she would cry. Suman Kumar Singh raped her and all the accused persons threatened her not to say anything to anyone otherwise they will kill her all family members.

Learned counsel for the petitioner submits that from the First Information Report itself it would appear that the victim girl claims to have heard the call and went out from her room, nobody else from the family came outside, she has identified all the four persons who belonged to village Sagrath. The specific allegation of pressing mouth of the victim girl is against co-accused Suman Kumar Singh. She has repeated in her statement that all the four persons are of village Sagrath, however this petitioner does not belong to village Sagrath, he comes from village Mahamdadpur, Doasi.

It is further submitted that the specific allegation of

commission of overt act of rape is against co-accused Suman Kumar Singh who had earlier teased her and allegedly raped the victim girl.

It is further submitted that in the medical examination report she has been found aged between 17-18 years, no injury has been found on her private parts and the doctors have opined that she was habituated to sexual intercourse for some time.

Mr. Parmanand Kumar, learned A.P.P. for the State has though opposed the prayer for bail of the petitioner but at the same time it is not denied that so far as the specific allegation of commission of rape is concerned, it is against co-accused Suman Kumar Singh. The allegation of pressing the mouth of the victim girl by a Gamchha and lifting her is also against co-accused Suman Kumar Singh. In the medical examination report the victim girl has been found aged between 17-18 years.

Considering the facts and circumstances of the case wherein this petitioner is said to be the resident of village Mahammadpur Doasi, but in the F.I.R. the victim girl has taken name of one Munnu Singh, whose father's name is not known but she claims that he is the resident of village Sagrath and this statement has been made repeatedly at two places in the First

Information Report, and further considering that the specific allegation of commission of rape is against the other co-accused and there is no allegation that the accused namely, Munnu Singh had committed rape, in the nature of the materials placed before this Court and finding that the petitioner has remained in jail in connection with this case for almost one year, investigation against him is complete but the trial is not likely to take place in near future and petitioner has otherwise no criminal antecedent, this Court directs release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Special Judge – cum – Additional District and Sessions Judge – VII, Katihar in connection with Kadwa P.S. Case No. 150/2020 (G.R. No. 3028/2020), subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person

acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

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 violating the same shall invite action towards cancellation of bail.

(Rajeev Ranjan Prasad, J)

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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'.