

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13879 of 2021

Arising Out of PS. Case No.-21 Year-2020 Thana- MAHILA P.S. District- Sitamarhi

KALE NADAF @ MD. ABDUL KALAM NADAF S/o Md. Naim Nadaf R/o
Village- Awapur, P.S.- Pupri, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dinesh Jha, Advocate

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

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

2 21-01-2022 Due to the third wave of COVID-19 Pandemic, the

matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading ‘For
Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the petitioner and learned
APP for the State through virtual mode.

Learned Counsel for the petitioner is directed to
remove the defect(s), as pointed out by the office, within a
period of four weeks after restoration of normalcy.

The petitioner is apprehending his arrest in connection
with Sitamarhi Mahila P.S. case No.21/2020 registered under
Sections 376(D) of the Indian Penal Code.

Allegation is that on 19.07.2020 at 12.35 in the night
the informant was sleeping along with her family, all of sudden
someone started calling ‘Manjar-Majar’ from outside. Upon
this, she opened the door and co-accused Md. Saddam and Md.



Naushad entered her house forcefully, threw her on the floor. When her brother-in-law opposed this act, co-accused Sahir and the petitioner, who had pistols in their hands, entered the house and threatened her family members and co-accused Md. Saddam and Md. Naushad raped the informant one by one.

It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. Prior to institution of the present case, a case was instituted by the co-accused of the present case against the informant side for committing rape of the daughter of co-accused. The present case is outburst of the said case instituted by the co-accused of the present case. Subsequently vide Annexure 3 to the present application, a petition has been filed in the court below, where the informant has retracted from her earlier statement made in the F.I.R. The allegation of committing rape is on co-accused persons.

On behalf of the State, it is submitted that the petitioner is named in the complaint case/F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail



application has taken note of the exponential rise in number of covid cases due to outbreak of third wave of Covid-19 pandemic. Further this Court can also not lose sight of the fact that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the facts and circumstances, the petitioner, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned 1st Additional Sessions Judge, Sitamarhi in connection with Sitamarhi Mahila P.S. case No.21/2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner shall furnish bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the Court concerned in connection with the aforesaid case.

Narendra/-

(Sudhir Singh, J)

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