

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46615 of 2021**

Arising Out of PS. Case No.-83 Year-2020 Thana- KALUAHI District- Madhubani

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ROHIT KUMAR MAHTO S/o SHIBU MAHTO @ SHIV KUMAR MAHTO
R/o VILLAGE-CHITAH, P.S-KALUAHI, DISTRICT-MADHUBANI.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Subhash Kumar Jha

For the Opposite Party/s : Mr.Bhanu Pratap Singh, APP.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 13-01-2022 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State in virtual court

proceeding.

Let the defects, as pointed out by the office, be

removed within four weeks of start of normal functioning of the

physical court.

Petitioner seeks bail in connection with Kaluahi P.S.

Case No. 83 of 2020 registered for the offences punishable

under Sections 448, 341, 323, 354B, 427, 504, 506, 34 of the

IPC and Section 12 of the POCSO Act.

The prosecution case, in short, is that on 26.04.2020 at

night when the informant and his family members were sleeping

in his house, one unknown person entered into the room of his

grand daughter and tried to outrage her modesty. Hearing the



noise, they woke up and caught the said person who disclosed his name as petitioner. Thereafter, the informant called a Panchayati which was denied by the family members of the petitioner and they were abused and assaulted by the accused persons. The accused persons while entering the house of the informant took the petitioner with them and also threatened of dire consequences.

Learned counsel for the petitioner submits that petitioner has clean antecedent and has committed no offence and he has falsely been implicated in the present case. It is further submitted that it appears from the FIR itself that date of occurrence as mentioned in the FIR is 24.06.2020 but the present FIR has been lodged on 26.06.2020 after the delay of two days without any explanation. Learned counsel further submits that police after investigation submitted charge sheet against the petitioner and petitioner is in custody since 25.01.2021.

The learned Additional Public Prosecutor opposed the prayer of bail on the basis of case diary and statement of the victim under Section 164 Cr.P.C. and submits that in her statement the victim clearly stated that petitioner tried to commit rape on her.



Considering the aforesaid facts and circumstances as well as period of custody, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-6 cum Special Judge, POCSO Act, Madhubani in connection with Kaluahi P.S. Case No. 83 of 2020, G.R. No. 26 of 2020, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. 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.

(Rajesh Kumar Verma, J)

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