

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49428 of 2021**

Arising Out of PS. Case No.-152 Year-2019 Thana- GORIAKOTHI District- Siwan

DHARMENDRA KUMAR CHAUHAN @ RAJA S/o- Prabhu Chauhan
Resident of Village- Phataha, P.S.- Gopalganj, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Ram Naresh Ray, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

2 27-01-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State through virtual court proceedings.

Let the defect(s), if any, be removed within a period
of four weeks after complete start of the physical Court.

The petitioner seeks regular bail in connection with
Gorayakothi P.S. Case No. 152 of 2019 giving rise to POCSO
Trial No. 163 of 2019 instituted for the offences under Sections
448, 354, 376, 511 of the Indian Penal Code read with Sections
8 and 12 of the Protection of Children from Sexual Offenses
Act, 2012.

Learned counsel for the petitioner submits that the
petitioner is in custody since 26.08.2019, is a person with clean
antecedent and charges have been framed in the year 2019 itself.
Learned counsel further submits that the informant alleges that
petitioner on 25.08.2019 at about 11:50 A.M. entered into the



house of the informant, aged 16 years, and on point of knife tried to commit sexual assault and on scream of the informant family members rushed to the room and the petitioner was caught and was handed over to the local police and subsequently sometimes later the knife was also produced before the police. Learned counsel next submits that from a bare perusal of the allegation, it would manifest that allegation is of attempt. Further no prudent man in the morning would enter the house of a person with an intention to commit sexual assault when the entire family members are present in the house. Learned counsel also submits that the informant and the petitioner were in love and the petitioner had come to meet the informant secretly and when the parents came to know about the same, the present false case came to be instituted. Learned counsel further submits that it absolutely does not stand to reason that if the petitioner was apprehended then why the knife was not produced before the police, when the petitioner was handed over, the learned counsel submits that despite charges being framed till date not a single witness has turned up to support the prosecution case.

Learned A.P.P. for the State vehemently opposes the prayer for regular bail of the petitioner but is not able to meet the submission of the learned counsel for the petitioner that it is



a case of attempt and further no prudent man with clean antecedent would enter someones house in presence of all the family members with an intention to commit sexual assault and also as to why the knife was not produced before the police when the petitioner is alleged to have been apprehended at the spot with the knife.

Considering the fact that the petitioner is in custody, is a person with clean antecedent, charges have been framed and till date not a single witness has appeared and it is a case of attempt, let the petitioner above named be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, POCSO, Siwan in connection with Gorayakothi P.S. Case No. 152 of 2019 giving rise to POCSO Trial No. 163 of 2019, with condition that the petitioner shall be released from custody only if till today not a single witness has appeared in the trial.

(Satyavrat Verma, J)

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