

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.58857 of 2022

Arising Out of PS. Case No.-57 Year-2016 Thana- JOGAPATTI District- West Champaran

Mantoo Mukhiya @ Mantu Mukhiya S/O Harendra Mukhiya Resident Of
Village- Khalwa Tola Piprahiya, P.S.- Yogapatti (Nawalpur), District- West
Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. B.N Mishra, Advocate

For the Opposite Party/s : Mr. Dashrath Mehta, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 23-12-2022 Learned counsel for the petitioner is permitted to
remove the defects(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. B. N. Mishra, learned counsel for the
petitioner and Mr. Dashrath Mehta, learned Additional Public
Prosecutor for the State through video conferencing.

The prosecution case is based on fardbeyan of the
informant alleging therein that on 11.02.2016 at about 4 pm,
while the informant along with her daughter aged about 16 years
were cutting grass, all the accused persons including the
petitioner, abused them as to why she has made complaint
against Mantu Mukhiya, who entered into his house on



08.02.2016 and made an attempt for committing rape. On protest being made, the accused persons abused and assaulted them.

Learned counsel appearing on behalf of the petitioner submits that from the tenor of the FIR, it is evident that there is only allegation that all the accused persons abused the informant and her daughter and when the protest was made all the co-accused persons assaulted the informant and her daughter. However, the police after investigation, has found no case under section 376,511 and section 8 of the POCSO Act and submitted charge sheet only under section 341,323,354, 504/34 of the Indian Penal Code against all the co-accused persons including the petitioner. He next submits that the informant as well as her daughter were examined by the doctor and the injuries were found to be simple in nature. He lastly submits that during the course of investigation, the petitioner was provided the privilege under section 41(1) of the Code of Criminal Procedure and he never misused the same but after submission of charge sheet, he surrendered, before the learned court below on 05.07.2022. and since then he is in custody. While concluding the submissions, Mr Mishra further submits that



now both the parties have settled the matter outside the court which had arisen on account of some differences and they do not want to pursue the matter any further.

On the other hand, learned counsel for the State vehemently opposed the bail application and submits that there is specific allegation that the petitioner has abused and assaulted the informant and her daughter.

Regard being had to the submissions made on behalf of the petitioner and considering the fact that the charge sheet has been submitted only under section 341, 323, 354, 504/34 of the Indian Penal Code and moreover, the petitioner is in custody since 05.07.2022 having fair antecedent, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI cum Special Judge POCSO, Bettiah, West Champaran in connection with Yogapatti Nawalpur P.S Case no. 57 of 2016, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the



trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

N.K/-

(Harish Kumar, J)

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