

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19548 of 2023**

Arising Out of PS. Case No.-170 Year-2022 Thana- KHUDAGANJ District- Nalanda

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BABAN RAJAK @ MD. BABAN RAJAK Son of Late Tunu Rajak Resident
of Village - Mahmuda, P.S.- Khudaganj, District - Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satya Prakas, Adv.

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

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

3 12-07-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner seeks bail in connection with POCSO
Case No. 165 of 2022 arising out of Khudaganj P.S. Case No.
170 of 2022 registered for the offence under Sections
376(A)(B)(C) of the Indian Penal Code and Section 4 and 6
of the POCSO Act.

The petitioner is alleged to have committed rape
upon the minor daughter of the informant.

Learned counsel appearing for the petitioner
submits that the petitioner is innocent and has falsely been
implicated in this case due to admitted land dispute between
the parties. He further submits that the petitioner happens



to be grand father of the victim and a false and fabricated case has been instituted against him in the garb of land dispute. He further submits that the petitioner happens to be of more than 65 years of his age and he cannot commit such type of offence. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioner. The petitioner is rotting in judicial custody since 18.12.2022.

Learned A.P.P. for the State on the other hand on the basis of material available on record and the case diary vehemently opposed the prayer for bail of the petitioner and submits that petitioner has committed rape upon the minor victim. He further submits that earlier the petitioner also committed such act to outrage the modesty of the victim for which a case being Khudaganj P.S. Case No. 114 of 2018 has already been instituted against the petitioner. He further submits that the statement of the victim was recorded under Section 164 Cr.P.C. in which she has categorically stated that the petitioner has committed rape upon her. He further fairly submits that medical report of the victim does not corroborate with the allegation as the doctor in the report has opined that no external injury suggesting sexual assault



is found on the person of the victim nor spermatozoa has been found in the victim.

Considering the facts and circumstances of the case, let the, above named, petitioner be released on bail, **after framing of charge**, on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge -cum- Special Judge, POCSO, Nalanda at Bihar Sharif in connection with POCSO Case No. 165 of 2022 arising out of Khudaganj P.S. Case No. 170 of 2022 with 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled 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.

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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