

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26827 of 2023

Arising Out of PS. Case No.-1376 Year-2022 Thana- NAWADA District- Nawada

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Kailash Yadav Son Of Ghano Yadav Resident Of Village- Musan Bigha Ps-
Nagar Nawada, Dist Nawada

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nitish Kumar Son Of Upendra Yadav Resident Of Village- Musan Bigha,
Ps- Nagar Nawada , Distt- Nawada

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad, Adv.
For the Opposite Party/s : Mr. Binod Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 25-07-2023 1. Heard learned counsel for the petitioner, learned
counsel for the informant and learned Additional Public
Prosecutor for the State.

2. Petitioner seeks bail, who is in custody since
11.11.2022 in connection with Nawada P.S. Case No.1376/2022,
dated 09.11.2022, for the offences punishable under Sections
341, 323, 324, 337, 354(B), 307, 504, 506, 34 of the IPC,
Section 27 of Arms Act and Section 8 of the POCSO Act.

3. According to prosecution case, the allegation
against the petitioner is that he tried to commit rape upon the
sister of the father of the informant, while she went to attend the
call of nature.



4. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offence as alleged in the F.I.R. He further submits that it appears from the F.I.R. that there is specific allegation against co-accused Kaushal Yadav and Balbhushan Yadav who caught the hand of victim and co-accused, namely, Karu Yadav has fired upon the victim. He further submits that from bare perusal of the F.I.R., it appears that the petitioner has tried to commit rape and from perusal of the statement of the victim recorded under Section 164 Cr.P.C., it appears that the victim has not stated anything about the incident of rape and co-accused, namely, Baleshwar Yadav has been granted bail by a co-ordinate Bench of this Court vide order dated 21.07.2023 passed in Cr. Misc. No. 43943/2023. He further submits that the police after investigation submitted the charge sheet against the petitioner and the petitioner is in custody since 11.11.2022.

5. Learned counsel for the informant as well as learned Additional Public Prosecutor for the State on the other hand on the basis of material available on record and case diary vehemently opposed the prayer for bail of the petitioner and



submits that it has come during investigation that the petitioner has tried to commit rape. Apart from that the petitioner has carried four criminal antecedent other than the present one but fairly submits on the basis of para-3 of the bail petition that the petitioner is on bail in all the four cases.

6. Considering the aforesaid facts and circumstances, 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 District and Sessions Judge-VI-cum-POCSO Act, Nawada in connection with Nawada P.S. Case No.1376/2022, 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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