

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.30511 of 2022**

Arising Out of PS. Case No.-414 Year-2021 Thana- HISUWA District- Nawada

MD. KALAM @ MURAL Jahir Miyan Residentt of Village - Mallik Tola,  
P.s.- Hisua, District - Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar  
2. Jubaida Khatoon, Wife of Saquil Miyan, R/o Village-Mallik Tola, Hisua,  
P.S.-Hisua, District-Nawada.

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Sheo Kumar Prasad, Advocate  
For the Opposite Party/s : Mr.Syed Ehteshamuddin, APP

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

7      15-05-2023                      Heard learned counsel for the petitioner and the  
learned A.P.P. for the State.

Despite valid service of notice upon opposite party  
No.2, the opposite party No.2 has not appeared.

The petitioner seeks bail, who is in custody since  
29.01.2022 in connection with Hisua P.S. Case No. 414 of 2021,  
F.I.R. dated 21.07.2021 registered for the offence punishable  
under Section 377 of Indian Penal Code.

The prosecution case, in short, is that one Jubaida  
Khatoon gave the written report before the concerned police  
officer and alleging inter alia is that the petitioner enticed the  
son of the informant namely Isteyak and take behind the bush.  
Thereafter, insert the private part in the mouth and also gave the



threatening to not give the information to other person otherwise kill you.

Learned counsel appearing for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. Further submits that it appears from the FIR that the date of occurrence as alleged in the FIR is 05.07.2021 but the present FIR has been instituted on 21.07.2021 without giving any explanation of delay. Further submits that the prosecution has not examined the victim under Section 161 Cr.P.C. as well as the victim was not produced before the concerned court for recording her statement under Section 164 Cr.P.C. and the allegation as alleged in the FIR is false and fabricated and the petitioner has not committed any offence as alleged in the FIR and the police, after investigation, submitted chargesheet against the petitioner and the petitioner is in custody since 29.01.2022.

Learned APP for the State has opposed the prayer for bail of the petitioner.

Considering the aforesaid facts, 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 learned Additional District and



Sessions Judge-VI-cum-Special Judge, POCSO Act, Nawada in connection with Hisua P.S. Case No. 414 of 2021, 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 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)**

Nitesh/-

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