

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34121 of 2023**

Arising Out of PS. Case No.-371 Year-2022 Thana- NAWANAGAR District- Buxar

Rajani Kant Choubey, S/O- Late Gupteshwar Chaubey, Village- Rewatia PS-
Nawanagar Dist- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Satyabir Bharti, Advocate Ms. Sushmita Sharma, Advocate Mr. Abhishek Anand, Advocate Ms. Kanupriya, Advocate
For the Opposite Party/s :	Mr. Anil Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 24-07-2023 Heard Mr. Satyabir Bharti, learned counsel appearing
on behalf of the petitioner and the learned APP for the State.

2. The petitioner apprehends his arrest in connection with Nawanagar P.S. Case No. 371 of 2022 registered for the offence punishable under Sections 354(A), 354(B) and 506 of the Indian Penal Code.

3. The petitioner who happens to be own uncle of the victim allegedly tried to outrage the modesty of his niece (victim) while she was sleeping.

4. Mr. Bharti, learned counsel for the petitioner, drawn the attention of this Court towards Annexure – 2 to the bail petition and submits that soon after the institution of the FIR, a partition has taken place amongst the four brothers in presence



of the Sarpanch of Gram Kachari, Parmanpur as well as local Mukhiya and all the family members, who were present there have put their respective signatures on Batwara Panchnama, which also suggests that on account of some partition dispute, this FIR has been instituted by mistake of fact. Taking note of the aforesaid facts, the police after investigation submitted final form, showing the petitioner as innocent and he has not been sent up for trial, the copy of which has been brought on record by way of Annexure – 4. Further submissions has been made that subsequently on being dissatisfied with the partition again a protest complaint has been filed before the learned jurisdictional Court and differing with the final form, the learned Court has taken cognizance for the offences under Sections 354 and 506 of the Indian Penal Code and Section 8/12 of the POCSO Act.

5. On the other hand, learned APP for the State vehemently opposes the pre-arrest bail application of the petitioner and submits that the petitioner has misused his fiduciary relationship by outraging the modesty of his own niece and he does not deserve the privilege of anticipatory bail.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that Investigating Officer, submitted final report after having found no cases made



out against the petitioner and also the fact that there is a family dispute on account of partition, coupled with the fair antecedent of the petitioner, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bonds of Rs. 20,000/- (Rupees twenty 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, Buxar in connection with Nawanagar P.S. Case No. 371 of 2022, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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