

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46963 of 2023**

Arising Out of PS. Case No.-83 Year-2023 Thana- KATIHAR MUFFASIL District- Katihar

Kalam Mustafa @ Md Kalam S/O Late Gulam Mustafa R/O Village- Dighi @
Dighghi, Ps. Mufassil, Dist. Katihar

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nafisuzzoha, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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

3 28-08-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Petitioner seeks bail, who is in custody since
29.04.2023 in connection with Mufassil Katihar P.S. Case No.
83 of 2023, F.I.R. dated 28.04.2023 for the offences punishable
under Sections 302, 307, 326, 354(B)/34 of the Indian Penal
Code.

3. According to prosecution case, on 27.04.2023 on
the occasion of marriage ceremony women and girls were
dancing and they were going on to Kali Mandir for worship in
the meantime, all the F.I.R. named accused persons including
the petitioner and others forcibly entered in rush of women and
girls and intending to outrage their modesty in the evening at
7:30 P.M. when informant was sitting in his Kirana shop got



information that some persons were assaulting his son he immediately rushed to P.O. and saw all the accused persons armed with weapons knife, sword, pistol and accused Md. Masum and Md. Afjal confined his son Hariom Kamti and accused Md. Sanawaz and Md. Siroz pushed knife in the stomach of Hariom Kamti with intent to commit murder, when Sumit Kumar wanted to save him accused Siroz assaulted by knife accused Md. Aman threatened them by showing pistol and accused Kalim provoked the other accused to kill them when villagers reached at P.O. all the accused persons fled away.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that from bare perusal of F.I.R. it appears that the allegation against the petitioner is that he has instigated in commission of crime in question and there is no acquisition of any assault or overt-act is attributed against the petitioner and there is specific and direct allegation of assault is attributed against co-accused namely, Md. Sanawaz and Md. Siroz, who stabbed the knife to the son of the informant. He further submits that the police after investigation submitted the charge sheet against the petitioner and the petitioner is in judicial custody since 29.04.2023.



5. The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner.

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 Chief Judicial Magistrate, Katihar in connection with Mufassil Katihar P.S. Case No. 83 of 2023, 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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