

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47844 of 2024

Arising Out of PS. Case No.-6 Year-2024 Thana- KACCHWA District- Rohtas

Santosh Kumar Nirala @ Santosh Ram, Son of Saheb Dayal @ Saheb Ram,
Resident of Village - Dhanhara, P.S.- Kachhawa, District - Sasaram.

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Bimlesh Singh, Son of Ramgati Singh, Resident of Village - Dhanhara, P.S.- Kachhawa, District - Sasaram.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajit Ojha, Advocate
For the Opposite Party/s	:	Mr. Satyendra Narayan Singh, Advocate
For the Opposite Party No. 2	:	Mr. Makardhwaj Upadhyay, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 18-09-2024 Heard Mr. Ajit Ojha, learned Advocate appearing on behalf of the petitioner and the learned Additional Public Prosecutor for the State. The opposite party no. 2 is represented through her counsel Mr. Makardhwaj Upadhyay, learned Advocate.

2. The application for grant of bail to the petitioner who is in custody in connection with Kachhawa P.S. Case No. 06 of 2024 registered for the offence punishable under Sections 376, 511 and 34 of the Indian Penal Code and Section 8 of POCSO Act.

3. Based upon the written report the prosecution alleges that the petitioner having lured the informant’s daughter



at the pretext of study had taken away in field where co-accused Bhulan Kumar was also present. Thereafter both accused persons had taken the informant's daughter inside the room and co-accused Bhulan Kumar tried to commit rape upon the victim. On screaming being made, the victim's brother came there and thereafter both the accused person succeeded in fleeing away.

4. Learned Advocate appearing on behalf of the petitioner contended that the present FIR has been instituted on the premise of enmity between both the families. Even if the allegation levelled in the FIR, for the sake of argument is taken to be true, the allegation against the petitioner is of guarding co-accused who has attempted to commit rape upon the victim and, as such, the FIR has been instituted under Section 376/511 of the Indian Penal Code. It is next contended that during the course of investigation, the statement of the independent witnesses were recorded and they doubted the presence of the petitioner. In fact, the entire allegation revolves around co-accused Bhulan Kumar but only with a view to wreck vengeance, the name of the petitioner has been implicated, moreover, the petitioner is a man of fair antecedent and now he has been incarcerated since 14.06.2024.

5. On the other hand, learned Additional Public



Prosecutor for the State as well as Advocate for the informant vehemently opposes the bail application and drawing the attention of this Court to the FIR contended that it is the petitioner who has indecently behaved with the girl and thereafter asked the co-accused to commit rape upon her and, as such, the complicity of the petitioner cannot be ruled out.

6. Regard being had to the submissions made on behalf of the parties and considering the nature of allegation on the premise of enmity, moreover, the investigation of the crime is complete and the charge-sheet has been submitted, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Court of Addition District Judge-VII-cum-Exclusive Special Judge, Prevention of Child from Sexual; Offences (POCSO) Act, Rohtas at Sasaram in connection with Kachhawa P.S. Case No. 06 of 2024, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of



trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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