

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.71688 of 2024**

Arising Out of PS. Case No.-31 Year-2024 Thana- MAHILA P.S District- West Champaran

Kanhaiya Kumar @ Kanhaiya Ram Son of Ram Chandra Ram R/O Village-  
Singari, P.S.- Bagaha, Dist.- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Phool Kumari D/O Indal Ram R/O Vill.- Singari, Ward no. 03, P.S.- Bagaha,  
Dist.- West Champaran.

... .. Opposite Party/s

**Appearance :**

|                          |   |                                    |
|--------------------------|---|------------------------------------|
| For the Petitioner/s     | : | Mr. Vijay Kr Singh No. 1, Advocate |
| For the Opposite Party/s | : | Mr. Satyendra Narayan Singh, APP   |
| For the Informant        | : | Mr. Randhir Kumar No. 1, Advocate  |

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

3      22-01-2025                      Heard the learned Advocate for the petitioner, learned  
Advocate for the informant and the learned APP for the State.

2. The petitioner apprehends his arrest in connection  
with Bagaha Mahila P.S. Case No. 31 of 2024, registered for the  
offences punishable under Sections 64 and 62 of the Bharatiya  
Nayya Sanhita and Section 8 of the POCSO Act.

3. On the fateful night on 07.07.2024, all the FIR  
named accused persons, including the petitioner, entered in the  
house of the informant, in an inebriated condition and tried to  
commit rape upon the informant and her cousin. On alarm being  
raised, the accused persons fled away after giving threat.

4. Learned Advocate for the petitioner drawing the



attention of this Court to the narrations made in the FIR contended that the alleged occurrence took place in the night of 07.07.2024, but surprisingly, the complaint was filed on 15.07.2024. Later on, the said complaint was sent to the concerned police station under Section 156(3) of the Indian Penal Code and accordingly, the FIR has been instituted on 29.07.2024. The delay has not been explained. It is the contention of the petitioner that in fact both the parties are next door neighbour and due to some strained relation between both the family regarding trifling matters for flowing of the drainage water, the present FIR has been instituted, in order to wreck vengeance. There is contradiction in the statement of the informant and the cousin, who was also sleeping beside the informant. The petitioner is having fair antecedent and he undertakes that he will fully co-operate in the proceeding of the Court.

5. On the other hand, learned counsel for the State as well as the informant opposed the pre-arrest bail application and drawing the attention of this Court to the statement recorded under Section 164 Cr.P.C. submits that the victim has supported the allegation that it is the petitioner, who tried to commit rape upon her, apart from she being minor.

6. Regard being had to the submissions made on



behalf of the parties and considering the delay in lodging of the complaint, which was later on sent to the concerned police station and the FIR has been instituted, coupled with the fair antecedent of the petitioner and the genesis of the occurrence, let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds 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 – VII – cum - Special Judge (POCSO), West Champaran, Bettiah in connection with Bagaha Mahila P.S. Case No. 31 of 2024 subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner with a further condition that if the petitioner shall be indulged in any kind of threatening or tampering with the evidence, the State shall be at liberty to file appropriate petition before the jurisdictional Court.

**(Harish Kumar, J)**

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