IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67704 of 2026

CNR No. BRHC010979082026

Arising Out of PS. Case No.-128 Year-2026 Thana- Bankebazar District- Gaya

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Abhay Rai S/o Raj Kumar Rai R/v - Singhorwa, Post - Rampur Gangauli, P.S - Riga, District - Sitamarhi At Present residing at - Bhaluwas, Near Banke Bazar, P.S - Banke Bazar, District - Gaya Jee

... ... Petitioner/s

Versus

1. The State of Bihar
2. Smt. X W/o Y R/v - Mirpur, Post - Jajlo, P.S - Hunterganj, District - Chatra

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Kumar Dhirendra Pratap Singh, Adv.
For the Opposite Party/s : Mr. Navin Kr. Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA

ORAL ORDER

3 04-11-2026 Heard the parties.

2. The petitioner seeks bail in connection with Banke Bazar P.S. Case No. 128 of 2026 registered for the offence under Sections 64, 62 of BNS and 8, 12 of POCSO and Section 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(2)(v) of SC/ST Act.

3. The petitioner is named in the F.I.R. and is in custody since 01.07.2026.

4. The allegation against the petitioner is to made an attempt to commit rape upon the minor daughter of the informant aged about 17 years on pretext of incantation (*jhar-phuk*).

5. Learned counsel appearing on behalf of the

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petitioner submitted that during the course of investigation the statement of victim daughter of the informant was recorded, from where it can be gathered safely that despite she was in naked condition, but no attempt was made by this petitioner for committing penetrative sexual assault/ rape, without having any intervening circumstances. It is pointed out that in such view of matter and taking note of statement of victim it can be safely said that it was not a case of attempt to commit rape as alleged. It is further submitted that the victim refused to join medical examination and in fact the informant approached the petitioner with her daughter and son for black magic practice. It is further submitted that Rs. 21,500/- was paid for purchasing the material which was supposed to be used during the *jhar-phuk.* While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case has already completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

6. Learned APP while opposing the prayer of bail submitted that the allegation is specifically available against petitioner, but he fairly conceded that charge-sheet in this matter was submitted for non-penetrative sexual assault i.e., for the offences punishable under section 8 and 12 of POCSO Act.

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7. Despite receiving notice personally by O.P. No. 2, none appeared to join present proceedings.

8. In view of aforesaid factual submissions and by taking note of overall nature of accusation, coupled with fact that investigation of this case has already concluded, wherein petitioner remains in custody since 01.07.2026, accordingly petitioner above named, is directed to be released on bail in connection with Banke Bazar P.S. Case No. 128 of 2026 on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Spl. Judge POCSO-cum- Addl. Session Judge VII, Gaya /concerned court, subject to the conditions as mentioned under Section 480(3) of BNSS.

(Chandra Shekhar Jha, J)

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