

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.73161 of 2018**

Arising Out of PS. Case No.-1318 Year-1998 Thana- COMPLAINT CASE District- Araria

Md. Yusuf, S/o SK. Saful, Resident of Village- Dariya Sonapur, P.S.  
Forbisganj Simraha O.P., District- Araria.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Bibi Husna, W/o Saifuddin, Resident of Village- Dariya, Sonapur Punandaha,  
P.S.- Barbisganj, District- Araria.

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Gopal Kumar Jha, Adv.

For the Opposite Party/s : Mr. Panchanand Pandit, APP

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**ORAL ORDER**

3      31-01-2019                      Heard learned counsel for the petitioner and learned  
APP for the State.

This is an application for bail on behalf of the petitioner who is in custody since 23.07.2018 in a case of misuse of privilege of bail granted to the petitioner in connection with a case registered for the offence punishable under Section 376/34 of the I.P.C.

The complainant's case was that the petitioner along with co-accused Jadidar ravished her in the shop of co-accused Jadidar. Subsequently, the petitioner was granted bail by the learned Court below. The charge was framed on 05.06.2003. Thereafter, the petitioner failed to appear before the learned Court below on the date fixed, as a result, his bail bond was



cancelled vide order dated 10.11.2004 and NBW was issued and the petitioner was declared absconder vide order dated 02.11.2016 and permanent warrant was issued. Again vide order dated 13.04.2009, the petitioner was granted bail, but subsequently thereafter, he again started remaining absent and ultimately his bail bond was again cancelled vide order dated 04.11.2015 and was declared absconder vide order dated 10.04.2017 by the learned Court below and permanent warrant was issued.

It is submitted by learned counsel for the petitioner that for earning of his livelihood, the petitioner had to go to outside, hence he could not appear before the learned Court below on the date fixed, as a result, his bail bond has been cancelled and permanent warrant has been issued. However, the petitioner is in custody for the last six months, but there is nothing on record to suggest that any progress being made in the trial. It is further submitted that the petitioner undertakes to appear before the learned Court below regularly on the date fixed. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the petitioner is in a habit of misusing the privilege of bail.



Considering the fact there is nothing on record to suggest that any evidence has been adduced on behalf of the prosecution in last several years, particularly, during the period the petitioner was under custody and considering the fact that the petitioner was granted bail on merit, coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner 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 learned 3<sup>rd</sup> Additional Sessions Judge, Araria, in connection with S.T. No. 202 of 2001, arising out of Complaint Case No. 1318 C/1998, subject to the condition that one of the bailor should be the close family member of the petitioner.

However, the learned court below will be at liberty to cancel the bail bonds of the petitioner, if he defaults for two consecutive occasions.

**(Dinesh Kumar Singh, J)**

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