

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.25948 of 2015**

Arising Out of PS.Case No. -31 Year- 2014 Thana -AWADPUR District- KATIHAR

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1. Md. Shoyab Ali son of Abdur Shamad  
2. Md. Taiyab Ali son of Abdur Shamad resident of village-Jabadpur , P.S.-  
Abadpur, District- Katihar

.... .... Petitioner/s

Versus

1. The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Anil Kumar Mishra

For the Opposite Party/s : Mr. Raj Ballabh Singh(App)

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN  
SHARMA**  
ORAL ORDER

3      08-10-2015                      Heard learned counsel for the petitioners and learned  
A.P.P. representing the State.

Petitioners seek bail in connection with Abadpur P.S.  
Case No. 31 of 2014 registered for the offences punishable under  
Sections 363, 366 of the Indian Penal Code.

The petitioners are not named in the F.I.R. but the  
victim after recovery in her statement recorded under Section 164  
of the Code of Criminal Procedure, has stated the name of the  
petitioners alleging that they were also involved in committing  
rape with her alongwith Semi and Shahid.

Submission is of false implication and that the  
statement of victim appears false as she has stated that she was left

beneath the bridge but from Para 24 it is apparent that the victim was recovered from the house of Samshul. The victim has stated the names of the petitioners with a view to extract money. The Doctor has not found any injury in her body or in or around her private part and further against the advise of the doctor she went away without going for the test of pregnancy and after considering these things, chargesheet has been submitted only under Sections 366, 120(B)/34 of the Indian Penal Code. The petitioners are in custody since 01.02.2015. The petitioners are full brothers and it cannot be expected that both will involve in such crime and they have not got any criminal antecedent.

Learned A.P.P. opposes the prayer of bail by pointing out the statement recorded under Section 164 of the Code of Criminal Procedure.

In the facts and circumstances stated above, the chargesheet has not been submitted under Section 376 of the Indian Penal code as medical evidence does not corroborate the prosecution version and, as such, petitioners above named are directed to be released on bail on execution of bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the Learned Chief Judicial Magistrate, Katihar arising out of Abadpur P.S. Case No. 31 of 2014 subject to

the conditions that one of the bailors must be near relative and another having sufficient immovable property within the territorial jurisdiction of the court concerned and the petitioners will remain present on each and every date during trial and the default on two consecutive dates on their part without any reason shall disentitle the petitioner from privilege of bail.

**(Jitendra Mohan Sharma, J)**

sushma/-

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