

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6253 of 2014

Arising Out of PS.Case No. -163 Year- 2013 Thana -MAJHAULIA District-
WESTCHAMPARAN(BETTIAH)

1. Ajay Yadav S/O Jaidev Yadav Resident Of Village Jaukatiya Ghora
Malahi Tola, P.S. Majhauliya, District West Champaran.

.... Petitioner

Versus

1. The State Of Bihar

.... Opposite Party

with

Criminal Miscellaneous No.44190 of 2014

Arising Out of PS.Case No. -163 Year- 2013 Thana -MAJHAULIA District-
WESTCHAMPARAN(BETTIAH)

1. Subhash Yadav @ Subash Yadav S/o Sheoraj Yadav resident of village-
Jaukatia, chhota Malahi Tola, P.S.- Manjhaulia, District- West
Champaran

.... Petitioner

Versus

1. The State of Bihar

.... Opposite Party

with

Criminal Miscellaneous No.8409 of 2015

Arising Out of PS.Case No. -163 Year- 2013 Thana -MAJHAULIA District-
WESTCHAMPARAN(BETTIAH)

1. Ekbali Yadav S/o Late Jangi Yadav resident of village - Javkatiya, P.S.
Majhauliya, District - West Champaran

.... Petitioner

Versus

1. The State of Bihar

.... Opposite Party

Appearance :

(In Cr.Misc. No.6253 of 2014)

For the Petitioner : Mr. Rajesh Kumar Sinha

For the Opposite Party : Mr. Shardanand Jha(App)

(In Cr.Misc. No.44190 of 2014)

For the Petitioner : Mr. Saurabh Kumar

For the Opposite Party : Mr. Rajendra Pd.Nat(App)

(In Cr.Misc. No.8409 of 2015)

For the Petitioner : Mr. Rajesh Kumar Sinha

For the Opposite Party : Mr. M.K.Nirala(App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 01-05-2015

Petitioners are languishing in custody since 22.04.2013, 23.04.2013 and 05.05.2013 in a case registered for the offences punishable under Sections 342, 376D of the Indian Penal Code.

The petitioner Subhash Yadav @ Subash Yadav has renewed his prayer for bail since his prayer for bail was earlier rejected vide order dated 28.02.2014 passed in Cr. Misc. No. 52774 of 2013.

It is alleged in the First Information Report that six F.I.R named accused persons including the petitioners took the informant and her mother to the house of Suresh Yadav and where all of them ravished the informant and her mother one by one.

It is submitted by learned counsel for the petitioners that one Digvijay Kumar, father of Suresh Yadav, on whose house the offence is alleged to have committed, lodged Majhaulia P.S. Case No. 163 of 2013 making accusation under Sections 366(A)/34 of the Indian Penal Code, wherein it is alleged against the informant and her mother of kidnapping the sister of Digvijay Kumar. The said First Information Report was registered on 23.04.2013. Hence, as a retaliatory measure the present case has been lodged. The occurrence is of 18.04.2013 whereas the First Information Report was registered on 20.04.2013 and the informant and her mother were medically

examined on 20.04.2013 for the same there is no explanation on behalf of the prosecution. The medical report does not suggest any injury on the private parts of the victims. Moreover the medical report completely negates the accusation of gang rape. Subsequently the mother of the informant was examined under Section 164 of the Cr.P.C where she stated that she was ravished by accused petitioner Subhash Yadav whereas her daughter was ravished by petitioner Ajay Yadav. Though the informant's statement under Section 164 Cr.P.C has not been recorded.

The statements have been made in para 3 of the petitions that petitioners have no criminal antecedent.

The report of Additional District & Sessions Judge- III, West Champaran at Bettiah suggests that only charges have been framed and no witness has been examined. Hence, there is no likelihood of trial being concluded in near future.

Considering the delayed lodging of the case, the inconsistency between the accusation levelled in the First Information Report vis-à-vis medical opinion and 164 Cr.P.C statement of the victim and there is no likelihood of trial being concluded in near future, let the petitioners, above named, be released on bail on furnishing bail bond of Rs. 10,000/-(ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate/Additional

Sessions Judge-III/IV, West Champaran at Bettiah in connection with Majhauriya Case No. 163 of 2013.

Let learned Court below cancel the bail bonds of the petitioners, if the petitioners default for three consecutive occasions during trial.

(Dinesh Kumar Singh, J)

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