

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47913 of 2015

Arising Out of PS.Case No. -38 Year- 2014 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

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1. Sri Shambhu Sah @ Shambhu Prasad S/o Late Mathura Sah
2. Sri Sunil Kumar Gupta @ Sunil Prasad S/o Sri Shambhu Sah
3. Sri Anil Kumar @ Anil Prasad S/o Sri Shambhu Sah
..... Petitioner/s

Versus

1. The State of Bihar.
2. Ramasharay Sahani, S/o Late Gaya Sahani
..... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Uday Shankar Choudhary, Advocate
For the Opposite Party/s : Mr. Parmeshwar Mehta(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 05-11-2015 Heard learned counsels for the petitioners, informant
and the State.

The petitioners are apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Section 366 of the Indian Penal Code.

The prosecution case is that on 1.9.2012, the daughter of the informant, Gita Kumari, was kidnapped by the petitioner and co-accused Rakesh Paswan, while she was going to the computer institute, leading to registration of Raxaul P.S. Case No.251 of 2012 on 28.09.2012 under sections 366, 385, 504/34 of the Indian Penal Code. The 164 Cr.P.C. statement of the victim



girl was recorded wherein she got her age recorded as 19 years when the learned court below has assessed her age as 20 years whereas she was found between 19-20 years during medical examination. In her 164 Cr.P.C. statement the victim has stated that she went in the company of Rakesh Paswan, who initially established forceful physical relation with her but subsequently they got married. On conclusion of investigation, the petitioners were not sent up for trial and final form was accepted but subsequently on protest-cum-complaint petition cognizance has been taken. During enquiry, under section 202 Cr.P.C., the victim named these petitioners.

It is submitted by learned counsel for the petitioners that petitioners were not named in the FIR but only on suspicion, since Rakesh Paswan, the named accused was working at the shop of the petitioners, they have been roped in the present case. The victim was kidnapped on 01.9.2012, but the FIR was registered on 28.09.2012, the petitioners were not sent up for trial and the final form was accepted. 164 Cr.P.C. statement of the victim was recorded on 30.10.2012, the victim has not named these petitioners but subsequently during investigation under section 202 Cr.P.C. she maliciously named the petitioners. Moreover, Main accused Rakesh Paswan has been granted anticipatory bail

by the learned court below.

Considering the aforesaid facts, let the above named petitioners be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Raxaul (East Champaran) in connection with Raxaul P.S. Case No.251 of 2012, subject to the conditions as laid down under Section 438(2) Cr.P.C.

Ashwini/-

(Dinesh Kumar Singh, J)

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