

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.6818 of 2016

Arising Out of PS.Case No. -110 Year- 2015 Thana -LAUKARIYA District-
WESTCHAMPARAN(BETTIAH)

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1. Krishna Mohan @ Krishna Mahto Son of Hariraj Mahto,
2. Baijnath Mahto Son of Kishun Mahto,
Both resident of Village- Kala Bairiya, P.S.- Laukariya, District- West
Champaran..... .. Petitioners

Versus

1. The State of Bihar Opposite Party

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Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey

For the Opposite Party/s : Mr. Abhay Kumar 1(App)

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

ORAL ORDER

3 11-04-2016 Heard learned counsel for the petitioners and learned APP
for the Sate.

Supplementary affidavit has been filed on behalf of the
petitioners annexing the petition and affidavit filed by the
informant and victim. Let the same be kept on record.

The petitioners seek bail in connection with Laukariya
P.S. Case No. 110 of 2015 registered for the offences punishable
under Section 376 (D) of the Indian Penal Code and Section 4 of
POCSO Act.

Allegedly, one Prem Mahto along with two unknown
caught the daughter of the informant and two unknown caught
hold the hand and leg and Prem Mahto committed rape with the
daughter of the informant. During investigation Prem Mahto stated
the name of the petitioners and further the petitioners also stated

regarding his involvement in the crime.

Submission is of false implication and that the petitioners are neither named in the statement under Section 161 Cr.P.C. nor in the statement recorded under Section 164 Cr.P.C., the alleged statement of co-accused and of the petitioners made before the Police have got no evidentiary value in the eye of law, the petitioners without any legal and tangible material are suffering in custody since 14.12.2015 and 18.12.2015 respectively, as per allegation, only co-accused Prem Mahto has committed rape and not the two unknown, the petitioners have not been put on test identification parade and as such they deserve sympathetic consideration to which learned APP after going through the case diary fairly submits that the petitioners have not been put on test identification parade and their names have transpired in the statement of co-accused.

In the facts and circumstances stated above, considering that the petitioners are neither named in the first information report nor in the statement of the victim recorded under Sections 161 and 164 Cr.P.C. and further allegation of committing the rape is against co-accused and not against the unknown, and as such, the petitioners above named are directed to be released on bail on execution of bail bonds of Rs. 10,000/- (ten thousand) each with

two sureties of the like amount each to the satisfaction of the learned Ist Additional Sessions Judge-cum-Special Judge, POCSO, Bagaha, West Champaran in connection with Laukariya P.S. Case No. 110 of 2015, subject to the conditions that one of the bailors must be a near relative and another having sufficient immovable property within the territorial jurisdiction of the court concerned and the petitioners shall 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 petitioners from privilege of bail.

(Jitendra Mohan Sharma, J)

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