

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6870 of 2016

Arising Out of PS.Case No. -40 Year- 2015 Thana -DUMRA District- SITAMARHI

1. Md. Anwar Nut @ Anwar Nut, S/o Md. Safi, resident of Village-
Monalwa, Bakhari, P.S. Sitamarhi, Distt.- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.16715 of 2016

Arising Out of PS.Case No. -40 Year- 2015 Thana -DUMRA District- SITAMARHI

1. Bhuntun Nut @ Bhutkun Nat son of Taslim Nut, R/o Village-
Bahadurpur, P.S.- Dumra, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.17023 of 2016

Arising Out of PS.Case No. -40 Year- 2015 Thana -DUMRA District- SITAMARHI

1. Juhi Khatoon W/o Shankar Khalifa, Resident of village- Shakti Chaura,
P.S.- Balia, District- Begusarai

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :
(In Cr.Misc. No.6870 of 2016)
For the Petitioner/s : Mr. Virendra Kumar
For the Opposite Party/s : Mr. Hirday Prasad Singh (App)

(In Cr.Misc. No.16715 of 2016)

For the Petitioner/s : Mr. Ashok Kumar Jha

For the Opposite Party/s : Mr. Pushpa Sinha (App)

(In Cr.Misc. No.17023 of 2016)

For the Petitioner/s : Mr. Rakesh Ranjan

For the Opposite Party/s : Mr. Ram Naresh Ray(App)

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**
ORAL ORDER

4 18-05-2016

All the above stated petitions have arisen out of Dumra P.S. Case No. 40 of 2015 registered for the offences punishable under Sections, 363, 366A, 372, 373, 120B of the Indian Penal Code, Section 4 of POCSO Act and Section 5/6 of PITA Act and accordingly, all the above stated petitions are being disposed of by this common order.

Heard learned counsels for the petitioners as well as learned Additional Public Prosecutor for the State.

Earlier the prayer for bail of all the petitioners was rejected vide order dated 29.09.2015 passed in Cr. Misc. No. 19832 of 2015 and analogous cases but submission on behalf of the petitioners is that petitioners are in jail custody since long but up till now, not a single prosecution witness could be examined. It is also submitted that it were co-accused, Chhote Nut and his wife, who took the victim and as a matter of fact, the petitioners have been implicated in this case only on the basis of so-called statement made by the victim under Section 161 of the Cr.P.C. It

is also submitted that the statement of victim under Section 164 of the Cr.P.C. has not been recorded and, therefore, the aforesaid laches on the part of investigating officer creates doubt about the genuineness of the statement recorded under Section 161 of the Cr.P.C.

On the other hand, learned Additional Public Prosecutor appearing for the State opposes the prayer submitting that there is serious allegation of kidnapping and putting the victim into flesh trade against the petitioners. It is further submitted that victim was recovered from the house of petitioner in Cr. Misc. No. 17023 of 2016.

The trial court has reported that charges against the petitioners were framed on 30.04.2016 and the matter is pending for recording the prosecution evidence.

Admittedly, petitioners are in jail custody for more than one year and up till now, not a single prosecution witness could be examined. No doubt, there is serious allegation of kidnapping against the petitioners but it does not mean that the petitioners should be kept behind the bars for indefinite period in the name of trial.

Considering the aforesaid facts and circumstances as well as submissions of the parties, let the petitioners, above

named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of Sri P.N. Singh, Special Judge-cum-1st Additional Sessions Judge, Sitamarhi in connection with Dumra P.S. Case No. 40 of 2015, subject to condition that they shall attend the trial court on each and every date in person for the period of nine months or till conclusion of their trial whichever is earlier and if they fail to do so on two consecutive dates without any genuine cause, the learned trial court shall be at liberty to cancel the bail bonds of the petitioners after due and proper enquiry.

(Hemant Kumar Srivastava, J)

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