

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2338 of 2016

Arising Out of PS.Case No. -298 Year- 2015 Thana -GHOSI District- JEHANABAD

- =====
1. Budhan Sharma @ Dhaneshwar Sharma Son of late Suresh Sharma
Resident of Village- Dumari, P.s ghosi, district Jehanabad.
2. Tanikan Singh son of late Ram Briksh Singh Resident of Village-
Serthua, P.s Ghosi, district Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Dudh Nath Singh
For the Opposite Party/s : Mr. Sadanand Paswan(App)

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 23-02-2016 Heard learned counsel for the petitioners and learned
counsel appearing on behalf of the State.

The petitioners are apprehending their arrest in
connection with Ghosi P.S. Case No. 298 of 2015, registered for
offences punishable under Sections 365, 367, 368, 344 and 34 of
the Indian Penal Code.

Diary in the present case was called for, which has since
been received.

Learned counsel for the petitioner submits that the
present case is one of out and out malicious prosecution and has
been engineered by the Police who have been after the petitioners
since a long time. He further submits that one such similar case



has been filed against them earlier, in which it was found that the investigating authorities had acted in the most arbitrary manner and the matter was also placed before the Human Right Commission, wherein, the role of Investigating Officer and the prosecution was deprecated by the Human Right Commission. He submits that in the present instance also, the case is one of malicious prosecution and the girl and her mother and sister have been set up to file the present case from which they have subsequently retracted.

Learned counsel appearing on behalf of the State after perusal of the case diary submits that there is sufficient material available in the case diary to implicate the petitioners. Even the statement recorded under Section 164 of the Code of Criminal Procedure was indicative of the fact that the petitioners had participated and had confined the girl in question for a considerable period of time. The first medical report was a hurriedly organized affair and on the second medical examination, it has been found that the girl had actually been subjected to sexual exploitation for a very long period of time and, thereafter, she had also aborted a child and as such the petitioners are not entitled to the privilege of anticipatory bail.

Considering the facts and circumstances of the case but

without commenting on the merits of the case, this Court feel that *prima facie*, it is not a fit case for grant of anticipatory bail. It is accordingly rejected. However, the petitioners may surrender in the Court below and seek for regular bail, which has to be considered on its own merits after considering all facts and circumstances.

(Anjana Mishra, J)

sunil/-

U		T	
---	--	---	--