

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39157 of 2016

Arising Out of PS.Case No. -35 Year- 2016 Thana -BASNAHI District- SAHARSA

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1. Ram Bilash Pal S/o Late Ram Swarup Pal
2. Manjay Pal S/o Ram Bilash Pal
Both R/o Village- Sahsaoul Tola Gareri Tol, P.S.-Basnahi, District-Saharsa
..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shiva Shankar Sharma

For the Opposite Party/s : Mr. Sri Binod Kumar

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

2 22-09-2016 Heard Sri Shiv Shankar Sharma, learned counsel for the

petitioners and Sri Binod Kumar , learned Additional Public

Prosecutor.

Two petitioners, who are father and son, have
approached this court with a prayer to grant bail in Basnahi P.S.
Case No. 35 of 2016, registered for the offence under Section 376,
380, 323, 504/ 34 of the Indian Penal Code and Section 27 of the
Arms Act, in the event of arrest or surrender.

At the very outset by way of referring to the F.I.R.
learned counsel for the petitioners submits that the present F.I.R.
has been lodged on the basis of complaint petition , which was
filed by the complainant/ informant and registered as Complaint
Case No. 1811C of 2014. He submits that in the complaint petition
the complainant has alleged regarding the occurrence which had

occurred in the night of 27/11/2014, whereas the present complaint was filed on 2/12/2014. By way of referring to Annexure- 3 to the present petition learned counsel for the petitioners submits that about two months prior to lodging of the present complaint the petitioner no. 1 had lodged a complaint vide Complaint Case No. 1451 of 2014 against the husband of the informant of the present case as well as informant Sukhiya Devi regarding commission of certain offences under section 406, 420, 467, 468, 472, 120B , 504, 506 of the Indian Penal Code. On the basis of the said complaint an F.I.R. vide Basnahi P.S. Case No. 91 of 2014 was registered on 18/10/2014. He submits that only with a view to create defence the complainant filed the present false complaint alleging that she was raped by petitioner no. 1. He submits that had there been any case of rape immediately the complainant would have rushed to the Police but there is no such indication. After much delay the complaint was filed. Even after filing complaint though it was marked by the learned Magistrate on 4/12/2014 for registering and investigating the case under section 156 (3) of the Cr.P.C., the present F.I.R. was lodged on 4/6/2016. He submits that on the basis of facts disclosed in the complaint petition it appears that the complaint was filed falsely with a view to create a defence since earlier informant

/complainant of the present case was made accused with her husband .

Learned Additional Public Prosecutor has opposed the prayer for grant of bail.

However, considering Annexure -3 to the petition i.e. the F.I.R., which was lodged by the petitioner no. 1 against the informant of the present case which was much prior to lodging the complaint petition as well as the fact that complaint was filed belatedly and F.I.R. has been lodged after about two years, the court is of the opinion that at least it is a fit case for extending the privilege of anticipatory bail.

Accordingly , in the event of arrest or surrender within a period of six weeks from today, let both the petitioners Ram Bilash Pal and Manjay Pal be enlarged on bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of Sri Shivismurat Prasad, A.C.J.M. IVth, Saharsa / concerned court in connection with Basnahi P.S. Case No. 35 of 2016 subject to the conditions as contemplated under section 438(2) of the Code of Criminal Procedure.

(Rakesh Kumar, J)

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