

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11672 of 2016

Arising Out of PS.Case No. -312 Year- 2015 Thana -NANHPUR District- SITAMARHI

1. Bharat Kumar Son of Chandra Sahani
2. Subodh Kumar son of Mahendra Sahni Both Resident of Village-Bath Asali, PS Nanpur , District Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.16537 of 2016

Arising Out of PS.Case No. -312 Year- 2015 Thana -NANHPUR District- SITAMARHI

1. Rajesh Sahni @ Rajesh Shni Son of Mahendra Sahni Resident of Village Banaul Dinha, Tola, PS Nanpur, District Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.11672 of 2016)

For the Petitioner/s : Mr. Devendra Kumar

For the Opposite Party/s : Mr. Ashok Kr.Singh(App)

(In Cr.Misc. No.16537 of 2016)

For the Petitioner/s : Mr. Bimal Kumar

For the Opposite Party/s : Mr. Anil Kr. Singh(App)

CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

4 14-07-2016 Both the Criminal Miscellaneous are of the same occurrence and as such have been heard together and are being disposed of by passing this common order.

Heard the learned counsel for the petitioners, the learned A.P.P for the State as also the learned counsel for the informant.

The petitioners seek bail in a case for the offences punishable under sections 120 (B) and 376/34 of the I.P.C and section 4/8 of the POCSO Act.

Allegedly, fifteen years old daughter of the informant went to attend the call of nature and then the petitioners and other FIR named accused persons brought her in a bamboo clump and committed rape with her.

Submission is of false implication and that the statement of the victim girl recorded under section 164 of the Cr.P.C. wherein she has stated that Pappu Kumar and Rajesh Sahni committed rape with her, the petitioners Bharat Kumar and Subodh Kumar have been unnecessarily implicated in this case, the victim girl also has not stated regarding any role played by them in the crime and as such both the petitioners deserve sympathetic consideration.

On behalf of petitioner Rajesh Sahni @ Rajesh Shni it is submitted that he has been made victim of the circumstances, due to the earlier dispute and enmity he has been implicated and named by the victim girl and as such he also deserves sympathetic consideration.

The learned A.P.P. duly assisted by the learned counsel for the informant opposes prayer for bail by submitting that this is a case of gang rape.

In the facts and circumstances as stated above,

considering the statement of the victim girl recorded under section 164 of the Cr.P.C., I am not inclined to enlarge the petitioner Rajesh Sahni @ Rajesh Shni (petitioner in Cr. Misc. No. 16537 of 2016) on bail and accordingly his such prayer stands rejected.

However, considering that against the petitioners Bharat Kumar and Subodh Kumar (petitioners in Cr. Misc. No. 11672 of 2016) the victim girl has not stated anything and as such both are directed to 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 1st Additional Sessions Judge- Cum- Special Judge, Sitamarhi in Nanpur P.S. Case No. 312 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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