

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37334 of 2017

Arising Out of PS.Case No. -28 Year- 2017 Thana -MAHILA P.S. District- BHABHUA (KAIMUR)

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1. FAHIM KHNA @ FAHIM KHAN, Son of Tabu Khan, resident of Village Sirbeet, P.S. Chainpur, District- Kaimur.
 2. Iliyas Dhobi, Son of Faukh, resident of Village Sirbeet, P.S. Chainpur, District- Kaimur.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Jha

For the Opposite Party/s : Mr. Rajendra Singh Shastriji

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 13-09-2017 Heard learned counsel for the petitioners and learned
APP for the State.

Petitioners are languishing in judicial custody since 11.06.2017 in connection with Mahila (Bhabua) P.S. Case No. 28/2017 for offences punishable under Section 376-D of the Indian Penal Code and 4 of the POCSO Act.

The prosecution case, as lodged by the informant, is that while she had gone with her mother to the field for natural call the petitioners along with other co-accused forcibly took her and committed gang rape on her.

It has been submitted by the learned counsel for the



petitioners that they are innocent, bear no criminal history, have been falsely implicated in the aforesaid case and that the informant had a love affair with one Sujit Kumar, who has stated that she talked to him on telephone and made no such allegations. He submits that the brother of the informant was on inimical terms with the petitioners and other co-accused and, as such, have falsely been implicated. He further submits that as per the medical report, the age of the informant has been assessed as 19 years, as such, POCSO Act will not be applicable and that she was found pregnant although the medical examination was done just one day after the occurrence. It is further submitted that charge-sheet has already been submitted and there is no allegation of tampering of the prosecution witnesses by the petitioners.

However, learned APP for the State opposes the prayer for bail stating therein that the informant has also named the petitioner in her statement under Section 164 Cr.P.C.

Considering the facts and circumstances and the materials on record, let petitioners, above named, be enlarged on bail on completion of six months in custody on furnishing bail bonds of Rs.10,000/-(Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Addl. District and



Sessions Judge 1st cum Special Judge, Kaimur at Bhabua, in connection with Mahila (Bhabua) P.S. Case No. 28/2017, subject to the condition that both the bailors would be close relatives of the petitioners.

(Nilu Agrawal, J)

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