

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.14569 of 2017

Arising Out of PS.Case No. -253 Year- 2016 Thana -KADWA District- KATI HAR

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1. Md. Mustaffa, son of Late Johar Ali,
2. Mofil, son of Late Basir,
3. Majo Khatoon, wife of Md. Kalim,
4. Sahara Khatoon, wife of Md. Mustaffa,

All resident of village- Hachalpur Parariya, P.S.- Kadwa, District- Katihar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Marjina Khatoon, wife of Tajammul, resident of village- Hachalpur Parariya, P.S.- Kadwa, District- Katihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Radha Mohan Singh, Advocate

For the Opposite Party/s : Mr. Tapeswar Sharma, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

3 26-04-2017 Heard learned counsel for the petitioners and the State.

The petitioners apprehend their arrest in Kadwa P.S. P.S. Case No. 253 of 2016 instituted for the offence under Sections 364, 366(A), 504 and 120(B) of the Indian Penal Code.

It is alleged that daughter of the informant namely, Jannati Khatoon has lodged a rape case against the husband and relatives of Majo Khatoon (petitioner No. 3) in Mahila P.S. on 10.6.2016. Md. Kalim is in judicial custody for last one year. The petitioners were putting pressure upon the informant and her daughter to withdraw the case and also gave threat to them. It is further alleged that petitioner is living on road side due to flood. On 1.8.2016, daughter of the informant Jannati Khatoon went for

call of nature but she did not return. During search, the informant came to know that the petitioner has kidnapped her daughter. Thereafter, the informant went to police station but no case was registered and then on 7.9.2016, this complaint case was sent to local police station for institution of First Information Report.

Case diary has been received.

The learned A.P.P. has submitted that witness in paragraph-8 of the case diary has stated that he has seen the petitioners taking the daughter of the informant.

The counsel for the petitioners has submitted that from perusal of paragraphs-5, 7, 9 and 10 of the case diary, it is apparent that mere suspicion has been raised against the petitioners as none has seen the petitioners taking the daughter of the informant. He has further submitted that as per written report, kidnapping has taken place on 1.8.2016.

It is mentioned in paragraph-3 of the impugned order that the victim earlier filed compromise petition in G.R. No. 1542 of 2016 on 24.8.2016 which is pending in the court of A.D.J.-I, Katihar, by which the victim has compromised the case with husband of petitioner No. 3.

Be that as it may, from aforesaid material, it appears that mere suspicion has been raised against the petitioners.

Considering the facts and circumstances of the case, prayer for anticipatory bail of the petitioners is allowed. In the event of surrender/arrest of the petitioners, named above, within



six weeks from today, in connection with Kadwa P.S. Case No. 253 of 2016, they shall be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Katihar, subject to the conditions as laid down under Section 438 (2) Cr. P.C. with further conditions (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioners shall cooperate in the trial and shall be present on each and every date fixed by the court and absence on two consecutive dates without proper and reasonable reason will automatically cancel bail bond of the petitioners and (3) if petitioners tamper with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioners.

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(Sanjay Priya, J)

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