

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28871 of 2017

Arising Out of PS.Case No. -555 Year- 2016 Thana -TURKAULIYA District-
EASTCHAMPARAN(MOTIHARI)

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1. Nejam Miya @ Nejam Alam

2. Saddam Miya @ Saddam Alam

Both Sons of Moharam Miya, Resident of Village- Majuraha, P.S.- Raghunathpur,
District- East Champaran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar with
Ms. Rashmi Jha, Advocates

For the State : Mr. Binod Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 10-08-2017

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners apprehend arrest in connection with
Turkaulia (Raghunathpur O.P.) P.S. Case No. 555 of 2016 dated
12.11.2016 instituted under Sections 366A/34 of the Indian Penal
Code.

3. The allegation against the petitioners and five others is
of kidnapping the minor daughter of the informant.



4. Learned counsel for the petitioners submitted that they have been falsely implicated as there was past enmity and also they are next door neighbours. It was submitted that no such incident ever took place for the reason that though the incident is said to have taken place on 03.11.2016, but the F.I.R. was lodged only after 8 days on 12.11.2016, on the basis of *fardbeyan* submitted on 11.11.2016. Learned counsel submitted that due to neighbour dispute, earlier also the informant had filed a false case being Turkaulia P.S. Case No. 350 of 2016 on 09.08.2016 alleging assault and theft, after entering the house of the informant, in which the petitioners are on bail. Learned counsel submitted that in the statement of the so called victim girl under Section 164 of the Code of Criminal Procedure, 1973, she has not stated about any abuse or maltreatment and the said statement is clearly tutored which would be apparent from the fact that she has stated that on 03.11.2017 she was taken by another accused and when she asked to be sent to her mother, she was threatened and thereafter she said that on 14.11.2016 at 8:00 p.m. she was dropped off near *Logra Chowk* where she met her uncle who took her home. Learned counsel submitted that even in the medical report there has been no finding with regard to any abuse of the girl. Learned counsel submitted that it is unbelievable that a mother would wait for 8 days to lodge F.I.R. when her minor daughter goes missing and even if it is accepted that she had waited and made her own enquiry, beyond a



reasonable period of a few hours, not informing the police for full 8 days is clearly indicative of false implication.

5. Learned A.P.P., upon going through the case diary, submitted that the minor girl was kidnapped. However, he is not in a position to controvert the submissions of learned counsel for the petitioners or to offer any plausible reason for delay of 8 days in lodging of the F.I.R.

6. Considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Motihari, East Champaran in Turkaulia (Raghunathpur O.P.) P.S. Case No. 555 of 2016, subject to the conditions laid down in Section 438(2) of the Code.

(Ahsanuddin Amanullah, J)

Anjani/-

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