

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25688 of 2017

Arising Out of PS.Case No. -1 Year- 2015 Thana -NIRMALI District- SUPAUL

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1. Pankaj Paswan Son of Waso Paswan Resident of Mohalla - Vastakola
Dhansar, P.S. - Jharia, District - Dhanbad (Jharkhand).

2. Sunita Devi W/o Waso Paswan R/M - Vaslakoba, Dhansar, P.S. Jharia,
District - Dhanbad (Jharkhand).

.... Petitioner/s

Versus

1. The State of Bihar.

2. Rukmini Devi W/o Sri Sanjay Kumar Paswan R/o Nirmali Ward no. - 06,
P.S. - Nirmali, Dist. - Supaul.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Kumar Dipak, Advocate

For the Opposite Party/s : Mr. Sadanand Paswan, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

5 14-11-2017

The matter was heard on 13.11.2017 and the order was dictated but before signing the order this Court felt necessity of clarification on some point. Due to that reason, this case is listed under heading “to be mentioned” today.

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

The petitioners apprehend their arrest in connection with Nirmali P.S.Case No. 01/2015 registered under Sections 366, 120B, 34 of the Indian Penal Code and 3 (i) (xi) SC/ST (POA) Act.

The accusation is that when the informant woke up in the morning 13.12.2014, she did not find her daughter, Namita Anand @ Neha, aged about 18 years in the house. In the course of



search the informant came to know that her daughter was seen with Gaurav Kumar @ Kumar Gaurav on 31.12.2014 at Bhutah Chowk. On 10.12.2014 she received the call on her mobile. The caller disclosed his name Kumar Gaurav and asked her to talk her daughter Neha saying that due to Neha his two years period has been ruined. Thereafter, Kunal Shekhar, son of the informant, enquired about his sister to Kumar Gaurav then he replied to talk to Arti Kumari (friend of Neha). The informant claimed that Kumar Gaurav along with his family members kidnapped her daughter with an intention to perform the marriage.

Learned counsel appearing on behalf of the petitioners submit that due to love affair, the daughter of the informant performed the marriage with Pankaj Paswan (petitioner No.1), which would appear from the affidavit sworn on 03.1.2015 before the Notary Public, Dhanbad, Annexure-2 to this application but due to undue pressure of the family member, the daughter of the informant stated about her kidnapping and committing rape upon her by petitioner No.1. and Kumar Gaurav on talking her to her house. Further submission is that petitioner No.2, who is the mother of petitioner No.1 and Government employee, has been falsely implicated in the case.

On perusal of the case diary, it appears that, in course of investigation, the statement of the victim, daughter of the informant, was recorded under Section 164 Cr.P.C. in which



she stated about her love affair with Kumar Gaurav and coming out from the house in the night on call of Kumar Gaurav. When she came out, she was forcibly boarded in vehicle. Kumar Gaurav moved from there saying that he will meet later on. Thereafter, She was administered liquor then she became unconscious. On regaining consciousness, she found herself in the house of the petitioner No.1 where the petitioner No. 2 was also present. The petitioner No. 1 forcibly committed rape on her and then she was taken by Gaurav who also committed rape on her.

Having considered the facts and circumstances of the case, let the petitioner No. 2, Sunita Devi be released on bail in the event of her arrest/surrender before the Court below within six weeks from today on furnishing the bail bond of Rs. 10,000/- (Ten thousand) with sureties of the like amount each to the satisfaction of the learned S.D.J.M., Birpur in connection with Nirmali P.S.Case No. 01/2015, subject to condition as laid down under Section 438 (2) Cr. P.C.

However taking into consideration of nature of allegation against the petitioner No. 1, Pankaj Paswan his prayer for anticipatory bail is rejected.

(Rajendra Kumar Mishra, J)

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