

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.18454 of 2017**

Arising Out of PS.Case No. -47 Year- 2016 Thana -MAHILA P.S. District- KISANGANJ

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1. Md. Mister @ Md. Asgar Alam, Son of Buchan Ali,  
2. Md. Muslim, Son of Tindkauri,  
Both are Resident of Village- Baula Kaliaganj, Police Station- Palasi,  
District- Araria.

.... .... Petitioner/s

Versus

The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Raj Kumar, Advocate.

For the Opposite Party/s : Mr. Shailendra Kumar -1, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**  
**ORAL ORDER**

3      30-06-2017                      Heard learned counsel for the petitioners and the  
  
State.

The petitioners apprehend their arrest in Kishanganj  
(Mahila) P.S. Case No. 47 of 2016 instituted for the offence under  
Sections 341, 366-A, 376-D, 120-B of the Indian Penal Code and  
Sections 4 and 10 of POCSO Act.

It has been submitted on behalf of the petitioners that  
they are not named in the written report.

The written report has been filed after delay of three  
days i.e. 3.12.2016. The name of this petitioner has been disclosed  
by the victim girl in her further statement recorded in paragraph-2  
of the case diary and in her statement under Section 164 Cr. P.C.



The counsels for the petitioners has submitted that manner of allegation made by the victim girl against these petitioners in her further statement in paragraph-2 of the case diary and in her statement under Section 164 Cr. P.C. are quite different and inconsistent.

Case diary has been received.

The medical report of the victim girl is available in the case diary wherein the Doctor has stated that no external and internal injury has been found. There is no sign of any sexual intercourse on the person of the victim girl.

From the written report it appears that the informant has made specific allegation against co-accused Munna and Shahid of forcibly taking her on Motorcycle and thereafter committing rape with her in the *Bansbari* situated in the west of Power House.

The statement of victim girl has been recorded under Section 164 Cr. P.C. on 5.12.2016 wherein she has taken the name of these petitioners and stated that when she was returning to her house, four persons including these petitioners took her on Motorcycle. In her further statement made in paragraph-2 of the case diary she has stated that Mister and Muslim took her on Motorcycle. In the written report, the informant has not named 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 Kishanganj (Mahila) P.S. Case No. 47 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 A.D.J. – I, Kishanganj, 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.

S.Ali/-

**(Sanjay Priya, J)**

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