

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.47288 of 2016**

Arising Out of PS.Case No. -211 Year- 2016 Thana -NAUBATPUR District- PATNA

- =====
1. Dilipan Rai @ Dalipan Prasad S/o Late Ram Bisun Rai
  2. Harendra Kumar S/o Dilipan Rai @ Dalipan Prasad
  3. Satyendra Kumar S/o Dilipan Rai @ Dalipan Prasad All resident of Village Selgarh, P.S. Rani Talab, District - Patna

.... .... Petitioner/s

Versus

1. The State of Bihar

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

=====

with

**Criminal Miscellaneous No.44561 of 2016**

Arising Out of PS.Case No. -211 Year- 2016 Thana -NAUBATPUR District- PATNA

- =====
1. Shailendra Kumar @ Shailendra Prasad S/o Dilipan Rai @ Dalipan Prasad Resident of Village Selgarh, P.S. Rani Talab, District - Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar.

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

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**Appearance :**

(In Cr.Misc. No.47288 of 2016)

For the Petitioner/s : Mr. Mahendra Pd. Bharti  
: Mrs. Manisha Prakesh

For the Opposite Party/s : Mr. Maheshwar Prasad  
(In Cr.Misc. No.44561 of 2016)

For the Petitioner/s : Mr. Mahendra Pd. Bharti  
: Mrs. Manisha Prakesh

For the Opposite Party/s : Mr. Maheshwar Prasad

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**CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA**  
**ORAL ORDER**

6      20-01-2017                      Heard learned counsel for the petitioners as well  
  
as learned Addl. Public Prosecutor in both Criminal Miscellaneous  
  
application, which has been taken up for hearing together, as both  
  
the cases arise out of same P.S. case number and by a common



order, the prayer for bail was rejected by the Court concerned.

The petitioners pray for anticipatory bail in connection Naubatpur PS case no. 211 of 2016 registered for the offence punishable under sections 366(A), 376/34 of Indian Penal Code and Section 3/4 of POCSO Act.

Cr.Misc. 47288 of 2016 has been filed by the petitioners who are father and two sons and they are accused in complaint case no. 163(C) of 2016 and so far Cr.Misc. 44561 of 2016 is concerned, Shailendra Kumar, son of petitioner no. 1 in above case is the petitioner and in both the applications, petitioner moved against the order dated 17.09.2016 passed in anticipatory bail petition no. 5913 of 2016 by learned 1<sup>st</sup> Addl. Sessions Judge-cum-Special Judged, POCSO, Patna, by which prayer for bail of petitioners had been rejected. For the sake of convenience, they have been taken up together for hearing and disposal.

The prosecution case is that petitioner in Cr.Misc. 44561 of 2016 namely Sailendra Kumar in conspiracy with other accused persons allured the daughter of the informant, aged about 16 years on the pretext of marrying her and established physical relationship with her.

It is submitted on behalf of petitioners that as a matter of fact in both the cases, prior to lodging of this case



prosecutrix had given an information in the Mahila P.S., Gandhi Maidan (Annexure-2 to this petition). It is further submitted that so far Cr.Misc. 44561 of 2016 is concerned, it is stated that she was married with petitioner Sailendra Kumar and he used to torture her and thereafter present case is filed. It is further submitted that so far petitioners in Cr.Misc. 47288 of 2016 is concerned, they conspired together in committing rape which clearly appears to be improbable. It is further submitted that it appears to be a false and concocted story that father has cooperated his sons in committing rape over the victim girl.

Heard learned A.P.P. and learned counsel for informant in Cr.Misc. 47288 of 2016. It has been submitted by learned counsel for the informant that so far Annexure-2 to this application is concerned, as a matter of fact, the police personnel has got the application written by the prosecutrix and she has not made such statement. However, admittedly, prosecutrix is a minor girl and her statement is of no value in the eye of law but apart from that, there is clear allegation against the petitioner Shailendra Kumar that he had committed rape on prosecutrix and so far they conspired with the petitioner Shailendra Kumar and hence, do not deserve anticipatory bail.

Having heard both sides. In view of the facts and



circumstances of the case, it appears that this is not a fit case for grant of anticipatory bail to the petitioners. As such, their prayer for anticipatory bail is rejected at this stage. However, petitioners are directed to surrender before the court below and pray for regular bail and the court below will dispose of the matter on the materials available on record without being prejudiced by the order of this Court. Learned court below is further directed that while considering the application for bail of petitioners in Cr.Misc. 47288 of 2016, will consider the fact that petitioner no. 1 is the father of Shailendra Kumar and other petitioners are two sons of petitioner no. 1 and there is no allegation of rape against them.

With these observations, this bail application is dismissed.

**(Vinod Kumar Sinha, J.)**

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