

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45771 of 2016

Arising Out of PS.Case No. -49 Year- 2016 Thana -MAHILA PS District- DARBHANGA

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1. Rajkumar @ Rajkumar Mandal Son of Anand Madal
2. Somani Devi @ Soman Devi Wife of Raj Kumar Mandal Both are
resident of village- Pilakhwar Bishanpur, P.S.- Keoti, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Jha

For the Opposite Party/s : Mr. Sri Ashok Kumar Singh 1

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

3 02-02-2017 Heard learned counsel for the petitioner and learned
A.P.P. for the State as well as learned counsel for the informant.

The petitioners are apprehending their arrest in connection with Darbhanga Mahila P.S. Case No. 49 of 2016 registered for the offence punishable under Sections 376, 313 and 120B of the Indian Penal Code and Section 3/4 of the D.P. Act along with Section 4/6 of the POCSO Act.

Accusation is of establishing physical relation on the pretext of performing marriage and abortion of five months pregnancy.

Learned counsel for the petitioners has submitted that these petitioners are father and mother of accused Umesh Kumar, who is said to have committed rape on the informant. From



perusal of the F.I.R., it is evident that the alleged occurrence took place one and half years prior to the date of lodging of the F.I.R. This fact itself contradicts the genuinity of the allegation as alleged in the F.I.R against these petitioners. In fact, no occurrence as alleged in the F.I.R. has taken place ever. The accused, Umesh Kumar and the informant Sarita Kumari both were minor at the time of alleged occurrence, which would be evident from Annexure-2 of the application. Even the Doctor, who examined the victim, has not supported the allegation of commission of rape as he does not find any sign of rape on the person of the victim, which is apparent from annexure-3/1 of this petition. Therefore, no case under Section 376 of the Indian Penal Code is made out against the accused, Umesh Kumar. So far these petitioners are concerned, they have nothing to do with the alleged occurrence of rape. So far allegation of demand of dowry against these petitioners are concerned, it can be very well said that since both the accused and the informant were minor, question of demand of dowry and even marriage does not arise in any manner. Therefore, these petitioners deserved the privilege of anticipatory bail.

Learned counsel for the informant vehemently opposed the prayer for bail of these petitioners and submitted that these petitioners are the real culprit and forcibly aborted five



months pregnancy of the informant on the pretext of marriage and demanded dowry to the tune of Rs. 6 Lacs.

Considering the facts and circumstances of the case and the nature of allegation made against these petitioners, let the petitioners, above named, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bond of Rs. 10,000 (Ten Thousand rupees only) each with two sureties of the like amount each to the satisfaction of 1st, Additional Sessions Judge-cum- Special Judge (POCSO Act.), Darbhanga in connection with Darbhanga Mahila P.S. Case No. 49 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Arvind Srivastava, J)

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