

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.66505 of 2018

Arising Out of PS. Case No.-67 Year-2018 Thana- MAHILA P.S. District- Araria

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1. Md. Misrail @ Misrail, Son of Musaheb Ali,
 2. Md. Salique @ Shalik, Son of Md Misrail @ Misrail, Both
resident of Village- Niz Gehuan, P.S.- Jalalgarh District- Purnea.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nadimul Hasan

For the Opposite Party/s : Mr. Sri Kumar Virendra Narayan

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 14-12-2018 Heard the learned counsel for the petitioners
and the State.

The petitioners seek bail in anticipation of their arrest in connection with Spl. (POCSO) Case No. 33 of 2018, arising out of Araria (Mahila) P.S. Case No. 67 of 2018 dated 11.07.2018 instituted for the offence under Sections 376/34 of the Indian Penal Code and Section 3/4 of the POCSO Act.

The prosecutrix has alleged that while she along with her younger sister was returning from Matiyani Hat, Md. Danish started following her and finding a desolate place subjected the prosecutrix to sexual attack. When the matter was reported in the house of aforesaid Danish, the petitioners who are the father and brother of aforesaid Danish did not take any action and threw out



the relatives of the victim girl from their house.

Learned counsel appearing for the petitioners has submitted that the act of subjecting the prosecutrix to sexual intercourse is attributed to the son and the brother of the petitioners respectively. The petitioners are only alleged to have not taken up the issue with the main accused Danish. It has also been submitted that perhaps correct statement has not been made by the prosecutrix. In support of the aforesaid contention, it has been stated that the occurrence took place on 21.06.2018 but the FIR has been lodged on 11.07.2018 without any explanation for such delay. It has also been brought to the notice of this Court that the victim girl in her 164 statement has not stated anything about the petitioners. Other grounds also have been urged on behalf of the petitioners viz. the age of victim has been assessed to 18 to 19 years by a team of doctors and that earlier, the daughter of petitioner no. 1 was subjected to rape by the relatives of the victim girl of the present case.

In any view of the matter, considering that the petitioners are only alleged to have thrown away the persons who had come to complain against Danish and that they do not have any criminal antecedents, they are directed to be released on bail, 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, on their furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions-cum-Special Judge, Araria in connection with Spl. (POCSO) Case No. 33 of 2018, arising out of Araria (Mahila) P.S. Case No. 67 of 2018, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Ashutosh Kumar, J)

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