

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 33912 of 2018

Arising Out of PS. Case No.-23 Year-2018 Thana- Adapur District- East Champaran

Deepak Sah, S/o Bisar Sah, Resident of Vill.- Latihanwa, P.S. Adapur, Dist.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

with

Criminal Miscellaneous No. 33930 of 2018

Arising Out of PS. Case No.-23 Year-2018 Thana- Adapur District- East Champaran

Sanjay Sah @ Sanjay Kumar Gupta, Son of Laxhmi Sah, Resident of Village- Latihanwa, P.S. Adapur, District- East Champaran, Motihari.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

(In Criminal Miscellaneous No. 33912 of 2018)

For the Petitioner/s : Mr. Md. Anis Akhtar
Mr. Akhilesh Kumar

For the Opposite Party/s : Mr. Nirmal Kumar Sinha
Mr. Praveen Kumar

(In Criminal Miscellaneous No. 33930 of 2018)

For the Petitioner/s : Mr. Sharda Nand Mishra

For the Opposite Party/s : Mr. Sanjay Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3. 04-07-2018 In both the petitions, petitioners are accused in same case and as such, both the petitions were taken-up together and are being disposed of by this common order.

Heard Mr. Md. Anis Akhtar, learned counsel assisted
by Sri Akhilesh Kumar learned counsel for the petitioner (in Cr.



Misc. No. 33912/18), Sri Sharda Nand Mishra, learned counsel for the petitioner (in Cr.Misc. No. 33930/18), Sri Nirmal Kumar Sinha, learned Addl. Public Prosecutor as well as Sri Praveen Kumar, learned counsel for the informant.

Two petitioners, who are in custody in Adapur P.S. Case No. 23 of 2018 registered for offence under Sections 341, 342, 363, 376(G), 379, 506/34 of the Indian Penal Code and Sections 5(G)(H), 6 of POCSO Act (i.e. Protection of Children from Sexual Offences Act, 2012), have prayed for grant of bail.

By way of referring to Annexure – 3 to the petition, it was argued by learned counsel for the petitioner(s) that during medical examination, the age of the victim was assessed in between 18 to 19 years and as such, there is no reason for application of POCSO Act in the present case. It has also been argued that in the case, F.I.R. was lodged belatedly on 31st January, 2018, whereas, occurrence had taken place on 27th January, 2018. Learned counsel for the petitioner(s) tried to persuade the Court that it was not a case of rape, but sexual intercourse with consent and as such, petitioners are entitled to be released on bail.

Learned Addl. Public Prosecutor as well as learned counsel for the informant have vehemently opposed the prayer



for grant of bail. It has been argued that from the order impugned itself, it is evident that during investigation, statement of the victim girl was recorded under Section 164 of the Cr.P.C., in which, she has categorically supported the case. The informant in clear term has stated that after hearing cry of her daughter, she alongwith others rushed to the place of occurrence and one of the accused was apprehended, whereas, one another accused fled away.

In view of seriousness of the accusation, there is no reason to pass favourable order. The prayer for bail of both the petitioners stands dismissed.

(Rakesh Kumar, J.)

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