

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.61806 of 2018

Arising Out of PS. Case No.-45 Year-2018 Thana- HUSSAINGANJ District- Siwan

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1. Harikesh Rajbhar @ Harkesh Rajbhar, Son of Kumbhi Bhar,
 2. Vijay Kumar Rajbhar @ Vijay Bhar, Son of Harikesh Rajbhar,
 3. Budhu Rajbhar @ Budhu Kumar, Son of Harikesh Rajbhar,
- All are resident of Village- Khanpur Khairati, Police Station- Hussainganj, District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Irshad Ahmad Khan, Adv.
For the Opposite Party/s : Mr. J. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 11-12-2018 Heard learned Counsels for the petitioners and learned APP
for the State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 120B/34, 323,341,363,366A,504 and 506 of the Indian Penal Code.

The prosecution case got initiated on the basis of written report dated 03.03.2018 submitted by Dhruvpati Devi to the Station House Officer, Hussainganj Police Station to the effect that on 27.02.2018, at 9.00 A.M., the daughter of the informant, namely, Ruby Kumari aged about 14 years went to the school but she did not return. On enquiry being made, the informant learnt that her agnates, including the petitioners have kidnapped



her daughter. When the informant made complaint about the incident to her agnates, she was abused and assaulted by them.

It is submitted by learned counsel for the petitioners that the victim in her statement recorded under Section 164 Cr.P.C. has got her age recorded as 14 years, whereas the learned Court below assessed her age as 13 years. She has further stated that while she was going to school, she was being abducted by Kanhaiya, petitioner no.2, co-accused Vijay and Vigu and thereafter she went in the captive of co-accused Amit, who took her from Siwan to Gorakhpur and from there to Bhusawal. She has further stated that co-accused, Kanhaiya and Vigu are her cousin, whereas, petitioner no.2 is her cousin nephew and they have litigated term with her father. It is further submitted that the victim has not named petitioner nos. 1 and 3 and Budhu Rajbhar @ Budhu Kumar is not Vigu. The accusation has been levelled in the background of litigated relationship between the parties since the petitioners are agnates of the informant. Moreover, the thrust of accusation is against the co-accused, Amit. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

It is submitted by learned APP for the State that the victim



has named petitioner no.2 in the occurrence in her statement recorded under Section 164 of the Cr. P.C.

Considering the statement of the victim under Section 164 of the Cr.P.C., coupled with the statement made in paragraph no.3 of the petition to the effect that the petitioners are not having any criminal antecedent, let petitioner nos. 1 and 3 above named be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned CJM, Siwan in connection with Hussainganj P.S. Case No.45 of 2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

So far as petitioner no.2, Vijay Kumar Rajbhar @ Vijay Bhar is concerned since the victim has named this petitioner in her statement under Section 164 Cr.P.C., this Court is not inclined to enlarge him on anticipatory bail.

Let the learned Court below consider the prayer for regular bail of petitioner no.2, if he surrenders within a period of six weeks, in connection with Hussainganj P.S. Case 45 of 2018, pending before the learned CJM, Siwan keeping in



view of the fact that the thrust of accusation is against co-accused Amit in the statement of the victim recorded under Section 164 of the Cr.P.C.

(Dinesh Kumar Singh, J)

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