

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43562 of 2018

Arising Out of PS.Case No. -44 Year- 2018 Thana -KANHAULI District- SITAMARHI

- =====
1. Snehi Mahto, Son of Late Siyaram Mahto,
 2. Ajay Kumar @ Ajay Mahto, Son of Snehi Mahto, R/o Village- Parsa Khurd, P.S.- Kanahauli, District- Sitamarhi.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha

For the Opposite Party/s : Mr. Sri Ganesh Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 19-07-2018

Heard learned counsel for the petitioners and

learned APP for the State.

The petitioners apprehending their arrest in a case registered for the offences punishable under Sections 363, 366A/34 of the Indian Penal Code and Sections 8, 17 and 18 of the Protection of Children from Sexual Offences Act, 2012.

The prosecution case as per the written report of Ashok Kumar Sah submitted to the Station House Officer, Kanhauli P.S., is to the effect that on 22.03.2018 at 4.30 AM. The minor daughter of the informant namely, Sonu Kumari went outside to ease out when co-accused Pintu Kumar, petitioner no. 2, Ajay Kumar, Abhiranjan Kumar, Abhisek Kumar, petitioner



no. 1, Snehi Mahto, Lalita Devi and Rani Devi kidnapped her and flee away in a Bolero vehicle, they also threatened the informant of the dire consequences. Some miscreants named in the FIR also resorted to fire from country made pistol.

It is submitted by learned counsel for the petitioners that in the statement under Section 164 Cr.P.C., the victim got her age recorded as 19 years when the Court has assessed her age as 18 years where she has stated that she has never been kidnapped by anyone and got married with Pintu Kumar and now she is pregnant. The statement under Section 164 Cr.P.C. of the victim was recorded in presence of her mother. The petitioners are father and brother of the co-accused, Pintu Kumar and hence, they have been roped in the present case. It is further submitted that for the occurrence of 22.03.2018, the FIR was registered on 26.03.2018 which reached to the Court of learned Ist Additional Sessions Judge on 28.03.2018. A statement has been made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP, however, submits that the petitioners are named in the FIR.

Considering the statement under Section 164



Cr.P.C. which negates the accusation and does not suggest that the victim is minor, which also negates the accusation under POCSO Act and delayed lodging of the case coupled with the statement made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent , let the above named petitioners be released on anticipatory bail in the event of their arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Ist Additional Sessions Judge –cum-Special Judge, POCSO Act, Sitamarhi in connection with Kanahauli P.S. Case No. 44 of 2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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