

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5334 of 2019

In
Criminal Miscellaneous No.68089 of 2018

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1. Rafiun Nisha, Age-28 yrs. Female, W/o- Md. Khurshid
 2. Husane Bano, Age – 37 yrs. Female, W/o- Md. Amin Nurul @ Md. Nurul,
Both are Resident of village- Bikrampur, Bandey, P.S. Samastipur Muffasil,
District – Samastipur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nafisuzzoha

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

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 13-02-2019 This matter has been taken up for hearing out of turn

on the request of the learned counsel for the petitioners and a

slip to this effect has also been filed.

The present application has been filed for
modification of order dated 17.12.2018 passed in Cr. Misc. No.
68089 of 2018 to the extent that the petitioners preferred the
aforesaid Cr. Misc. application with a prayer for anticipatory
bail in Protest -cum- Complaint Case No. 341 of 2017 but the
said fact could not be incorporated in the order since it was
wrongly mentioned in paragraph 1 of the petition that the
petitioners seek anticipatory bail in Samastipur Muffasil P.S.
Case No. 212 of 2016 and the similar mistake perpetuated in the
prayer portion of the petition, as a result, the said mistake got



perpetuated in the order dated 17.12.2018 passed in Cr. Misc. No. 68089 of 2018.

Learned counsel for the petitioners is permitted to make necessary correction in the main petition.

Hence, let the order dated 17.12.2018 passed in Cr. Misc. No. 68089 of 2018 be read as 'the petitioners are apprehending their arrest in a protest -cum- complaint case wherein process has been directed to be issued for the offences punishable under Sections 366A/34 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act passed by learned Ist Additional Sessions Judge, Samastipur vide order dated 11.05.2018, as contained in Annexure-5.

The prosecution case as per the written report of Mustari Begum dated 03.08.2016 submitted to the Station House Officer of Samastipur Muffasil Police Station is to the effect that on 03.08.2016 at 5.00 A.M. the daughter of the informant, Yufan Parveen went outside to ease, but she did not return. Thereafter, search was made and informant came to know that her neighbours Md. Rashid and Mujibur Rahman have kidnapped the daughter of the informant.

It is submitted by learned counsel for the petitioners



that in the statement recorded under Section 164 Cr.P.C. the victim has not named anyone including the petitioners. In the statement under Section 164 Cr.P.C. the victim has got her age recorded as 16 years when the Court has assessed her age as 17 years. It is further submitted that on conclusion of the investigation, the petitioners and others have not been sent up for trial and the final form has been accepted. However, on protest after examining five witnesses including the victim as well as the order of cognizance was passed by the learned Ist Additional Sessions Judge, Samastipur vide order dated 11.05.2018 and cognizance has been taken under Sections 366A/34 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offence Act. A statement has been made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent.

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

Considering the fact that the accusation not being corroborated by the victim in her statement recorded under Section 164 Cr.P.C., the petitioners being ladies, on conclusion of the investigation, the petitioners not being sent up for trial and on protest -cum- complaint order of cognizance being passed,



let the above named petitioners be released on anticipatory bail in the event of 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 Special Judge cum- A.D.J.-I, POCSO Act, Samastipur in connection with Protest -cum- Complaint Case No. 341 of 2017, arising out of Samastipur Muffasil P.S. Case No. 212 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Accordingly, the present modification application stands disposed of.

(Dinesh Kumar Singh, J)

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