

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19771 of 2019

Arising Out of PS. Case No.-448 Year-2018 Thana- KUDHNI District- Muzaffarpur

1. Sarfalak @ Md. Sarfalak, aged about 22 years Gender-Male, Son of Md. Arshad Hussain
2. Md. Captain @ Fateh Alam aged about 22 years Gender Male, Son of Mazhar Alam
Both resident of Village-Sumera Afzalpur, P.S.-Kurhani, District-Muzaffarpur.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Md. Anis Akhtar, Advocate
For the Opposite Party : APP

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 04-04-2019 Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners apprehend their arrest for the offences alleged under Sections 341, 323, 354, 448, 504, and 506/34 of the Indian Penal Code registered in connection with Kudhani (Turki O.P.) P.S. Case No. 448 of 2018. Subsequently, Section 8 of the POCSO Act.

3. It is submitted that the petitioners have been falsely implicated and the first information report has been instituted after inordinate delay on 08.09.2018 for the alleged occurrence of 21.08.2018. The informant had earlier filed Kudhani (Turki O.P) P.S. Case No. 02 of 2018 against unknown persons for kidnapping her daughter. In that case the statement of the so-called victim girl was recorded under Section 164 of the Cr.P.C. to the effect that she had voluntarily eloped with one Anil Paswan. According to the medical examination, her age has been assessed as 18-19 years. It is therefore, submitted that the provisions of POCSO Act are not applicable in the



case as the informant's daughter is clearly major. It is therefore submitted that penal sections of the IPC are super-addition. The petitioners claim clean antecedents.

4. Be that as it may, in the event of the petitioners' arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioners be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of learned Special Judge (POCSO)-cum-1st Additional Sessions Judge, Muzaffarpur in connection with Kudhani (Turki O.P.) P.S. Case No. 448 of 2018 , subject to the conditions as laid down under Section 438 (2) Cr.P.C. and with further conditions --

(i) That one of the bailors of each of the petitioners shall be their close relatives .

(ii) That the petitioners shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioners shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, their bail bonds shall be liable to be cancelled by the learned Court concerned.

(iv) That the petitioners shall cooperate with the investigation, if not already concluded, and make themselves available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

BT/-

(Vikash Jain, J)

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