

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71132 of 2018

Arising Out of PS. Case No.-199 Year-2018 Thana- MAJHAULIA District- West Champaran

1. Anil Jaiswal S/o Late Harihar Sah
2. Puja Devi W/o Anil Jaiswal, Both resident of Village- Jiwdhara, P.S. Pipara Kothi, District- East Champaran.
3. Ganesh Sah S/o Late Bhanu Sah,
4. Sita Devi W/o Ganesh Sah Both resident of Village- Sarisawa Bazar, Ward No. 11, P.S.- Majhauria, District- West Champaran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar
For the Opposite Party/s : Mr.Sri Nand Kumar

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

4 06-03-2019 Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners apprehend their arrest for the offences alleged under Sections 366A/34 IPC and Section 8 of the POCSO Act registered in connection with Majhauria P.S. Case No. 199/2018.

3. It is submitted that the petitioners have been falsely implicated merely because they happen to be variously related to co-accused Jitendra Kumar against whom the informant's daughter has made accusation to have established physical relationship with her. It is submitted that according to the medical report, however, there is no sign of injury present on her body parts both externally as well as on her private parts. There is no recent sign of sexual assault and the age of the victim is between 19 and 20 years. She has not been found pregnant. It is also submitted that the FIR has been instituted after inordinate delay on 27.05.2018 for the alleged occurrence of 12.02.2018. It is therefore, submitted that the accusations alleged under Section 366A/34 IPC and Section 8 of the POCSO



Act are not made out considering that the informant's daughter has been found be major in the medical report.

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 bond of Rs.10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of learned Ist Additional Sessions Judge-cum-Special Judge, Bettiah, West Champaran, in connection with Majhaulia P.S. Case No. 199/2018, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and also subject to the following further conditions:

- i. That one of the bailors shall be a close relative of the petitioners.
- ii. That the petitioners shall not indulge in any similar offence till conclusion of the trial.
- iii. That the petitioners shall co-operate 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.
- iv. The petitioner nos. 1 and 3 shall remain physically present and petitioner nos. 2 and 4 shall be well represented 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.

(Vikash Jain, J)

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