

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54283 of 2019

Arising Out of PS. Case No.-188 Year-2019 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Niraj Kumar, aged about 46 years, Male, Son of Late Vasudeo Singh @ Vasudeo Prasad Resident of Mohalla-Malati Sadan, New Chanpur Bela, Shivpath (Dupulwa), P.S.- Jakkampur, District - Patna.
 2. Vikash Kumar @ Banti Singh, aged about 29 years, Male, Son of Shri Devendra Prasad, Resident of Mohalla-House No. 25, Adarsh Colony, Kidwaipur, P.S.- Buddha Colony, District - Patna.

... .. Petitioners

Versus

1. The State of Bihar
2. XYZ

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Sunil Kumar, Advocate
For the State	:	Mr. Jitendra Kumar Singh, APP
For the Complainant	:	Mr. Ram Naresh Ray, Advocate

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 29-08-2019 Heard learned counsel for the petitioners and learned APP
for the State assisted by learned counsel for the complainant.

2. The petitioners apprehend their arrest for the offences alleged under Sections 376, 323 and 504 of the Indian Penal Code registered in connection with Complaint Case No. 188(C)/ 2019.

3. It is submitted that the petitioners have been falsely implicated on the accusation of committing gang rape by the petitioners along with co-accused Abhishek Kumar and Dharmendra Singh upon the complainant. It is submitted that there is two days' delay in filing the complaint on 26.04.2019 for the alleged occurrence of 24.04.2019. Moreover, it is pointed out that the complainant is a resident of Naubatpur but the complaint has been



filed in the court at Masaurhi situated at a distance of several kilometers. There are material differences in the statements in the complaint petition and the complainant's restatement such as; as to who held her hand and forcibly dragged her to the room for commission of rape; whether the number of persons were gossiping in the office of Dharmendra Kumar when she went there. It is further pointed out that in paragraph 13 of the complaint she has stated that after the occurrence, she narrated the entire story to her husband who said that they would file a case in the court. On the other hand, just a day prior to the present complaint, another Complaint Case No. 993 of 2019 was filed by the complainant in the court of learned A.C.J.M, Danapur on 25.04.2019 under Section 498(A) and allied sections of the Indian Penal Code against her husband and others, *inter alia*, stating that on 14.04.2019 she had been ousted from the matrimonial home. It is therefore submitted that falsity of the prosecution story is writ large on the face of it. The petitioners claim clean antecedents.

4. Learned counsel for the complainant appears and has been heard. It is stated that there is specific accusation that the petitioners along with other accused persons committed rape upon the complainant.

5. 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 Sub-Divisional Judicial Magistrate, Masaurhi, Patna in connection with Complaint Case No. 188(C)/ 2019, subject to the conditions as laid down under Section 438 (2) of the 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.

(Vikash Jain, J)

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