

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51692 of 2019

Arising Out of PS. Case No.-16 Year-2018 Thana- ARIYARI District- Sheikhpura

1. UMESH PRASAD @ UMESH MAHTO Son of Bandhu Mahto @ Baudhu Mahto Resident of Village - Baikatpur, P.S.- Ariyari, Dist.- Sheikhpura.
2. Arvind Prasad Son of Late Dwarik Mahto @ Dwarika Mahto Resident of Village - Baikatpur, P.S.- Ariyari, Dist.- Sheikhpura.
3. Ramashish Prasad Son of Late Dwarik Mahto @ Dwarika Mahto Resident of Village - Baikatpur, P.S.- Ariyari, Dist.- Sheikhpura.
4. Dharmendra Prasad Son of Late Muneshwar Mahto Resident of Village - Baikatpur, P.S.- Ariyari, Dist.- Sheikhpura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur Ms.Babita Kumari
For the Opposite Party/s :		Mr.Zainul Abedin
For O. P. No. 2	:	Mr. (Dr.) Anjani Pd. Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 20-08-2019 Heard learned Counsel for the petitioners, learned Counsel for the informant-Opposite Party No. 2 and learned Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises out of Ariyari Police Station Case No. 16 of 2018, in which cognizance under Sections 147/149/341/323/504/354/34 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act, 2012.

The allegation against the petitioners, as per the First Information Report, is that on the alleged date of occurrence, the



informant was sleeping in the verandah of her house when co-accused Neeraj Kumar entered into her room and tried to commit rape on her. When the informant raised alarm, her parents woke up and villagers also gathered when the petitioner nos. 1 and 2 entered into her room and forcibly took away co-accused Neeraj Kumar. It has further been alleged that when the family members of the informant went to the house of the petitioners to make a complaint about the incident, they surrounded them and started assaulting the family members of the informant with lathi, danda, causing injuries to them.

Learned Counsel for the petitioners submits that the petitioners have falsely been implicated in this case on a concocted story. He further submits that the allegation under the provisions of the Protection of Children from Sexual Offences Act, 2012, is against co-accused Neeraj Kumar and not against these petitioners. He further submits that a counter case was also lodged by the petitioners' side, being Ariyari Police Station Case No. 17 of 2018, in which the prosecution party has been made accused. He further submits that after investigation, the police has submitted charge sheet under Sections 147/149/341/504/323/34 of the Indian Penal Code, which are bailable in nature. However, learned Magistrate has differed with the charge sheet



and has taken cognizance under the sections, mentioned above.

On the other hand, learned Counsel appearing on behalf of the Opposite Party No. 2 vehemently opposed the prayer of anticipatory bail and submits that various injuries have been found on the persons of the informant and her family members and, as such, the petitioners do not deserve privilege of anticipatory bail.

After having heard learned Counsel for the parties and taking into consideration the fact that there is case and counter case and the police have submitted charge sheet under the bailable sections, I am inclined to grant the petitioners privilege of anticipatory bail. Accordingly, this application is allowed.

Let the petitioners, above named, in the event of their arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Sheikhpura, in connection with Ariyari Police Station Case No. 16 of 2018/POCSO Case No. 05 of 2018, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioners



shall present themselves before the police/Court, as the case may be, as and when required and in the event of failure on their part to appear before the Court on two consecutive occasions, their bail bonds shall be liable to be cancelled.

Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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