

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.60035 of 2018

Arising Out of PS. Case No.-157 Year-2017 Thana- UCHKAGAON District- Gopalganj

1. Mukul Yadav, S/o Paras Yadav,
2. Amod Yadav, S/o Paras Yadav, Both are R/o Vill.- Siswaniya, P.S.- Uchkagaon, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhramveer

For the Opposite Party/s : Mr. Sanjay Kumar

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 07-01-2019 Heard learned counsels for the petitioners and the State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 366 (A)/34 of the IPC.

The prosecution case, as per the written report of Gita Devi submitted to the Station House Officer, Uchkagaon Police Station, is to the effect that on 14.08.2017 at 07.00 P.M., the daughter of the informant namely Amrita Kumari, aged about 14 years went to the maize field in the meantime, she was being kidnapped by the petitioners and other co-accused persons. It is alleged that co-accused Ranjan Yadav, who is a married person, used to talk with the daughter of the informant for the marriage



purpose. The accused persons also used to threaten the informant.

It is submitted by the learned counsel for the petitioners that the thrust of accusation is against co-accused Ranjan Yadav with whom the victim girl has performed marriage and this fact has also been reflected from the order dated 16.08.2018 passed in Cr. Misc. No. 46141 of 2018, whereby co-accused Parash Yadav, Gamha Yadav and Panmati Devi have been granted anticipatory bail. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

It is submitted by the learned APP for the State that the impugned order suggests that in the statement under Section 164 of the Cr. P.C. the victim girl stated that the petitioners kidnapped her.

It appears from the impugned order that the victim girl in her statements recorded under Sections 161 and 164 Cr. P.C. has alleged that she was kidnapped by the petitioners. The impugned order further reflects that the charge-sheet has been submitted against the co-accused Rajan Yadav and the petitioners have not been sent up for trial, but differing with the final form, cognizance has been taken against the petitioners also. Relevant portion of the impugned order, reads as follows:



“Perused the I.C. Record and the case-diary. It appears that petitioners allegedly kidnapped the informant’s minor daughter Amrita Kumari. The informant in her restatement in para-6 and witnesses in para-7 and 8 of the case-diary have stated in support of prosecution case with complicity of petitioners. Victim-girl in her statement recorded U/S 164 Cr. P.C. has stated that petitioners kidnapped her while she had gone to attend the call of nature and took away her by motorcycle to the Sasural of Rajan and left there. It further appears that the charge-sheet has been submitted against accused Rajan Yadav showing petitioners as not sent up, but the Id. A.C.J.M.-IX, Gopalganj took cognizance against the petitioners also U/S 363, 366/34 I.P.C. The complicity of the petitioners in the alleged occurrence is apparent.”

However, a co-ordinate Bench of the Court granted privilege of anticipatory bail to the similarly situated accused persons vide Cr. Misc. No. 46141 of 2018 wherein it has been recorded that in the statement under Section 164 Cr. P.C., the victim girl has stated that she had gone with the co-accused Rajan Yadav voluntarily and has also performed marriage with him. The relevant portion of the order reads as follows:

“The victim girl has given statement under Section 164 Cr. P.C. wherein she has stated that she had voluntarily gone with Rajan Yadav and performed marriage with him. This fact finds mentioned in the impugned order itself. Petitioners are father, mother and uncle of Rajan Yadav.”

Though the case diary is not available, but this Court



is not inclined to call for the case diary to verify the inconsistency recorded in both the orders quoted above.

Considering the fact that the thrust of accusation is against Rajan Yadav and the similarly situated co-accused persons have been granted anticipatory bail, coupled with the statement made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent, let the above named petitioners be released on anticipatory bail in the event of arrest/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 like amount each to the satisfaction of learned **A.C.J.M.-IX, Gopalganj**, in connection with **Uchkagaon P.S. Case No. 157 of 2017** subject to the condition as laid down under Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

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