

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8199 of 2020

Arising Out of PS. Case No.-54 Year-2018 Thana- MAHILA P.S. District- Madhubani

1. MD. GUFRAN @ Md. Gufran Ahmad Son of Md. Noorul Haque @ Md. noor Resident of Village - Dumri, P.S.- Rahika, District- Madhubani
2. Md. Akil @ Md. Akil Akhtar Son of Md. Noorul Haque @ Md. Noor Resident of Village - Dumri, P.S.- Rahika, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Md. Anisur Rahman
For the Opposite Party/s :	Mr.Md. Fahimuddin
	Mr. Ashok Kumar, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 19-06-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioners and Shri Ashok Kumar, the learned APP appearing for the State.

The petitioners apprehend their arrest in connection with Mahila Madhubani P.S. Case No. 54 of 2018, (Cr. Case No. 1130 of 2018) for the offence punishable under Sections 341, 323, 354(B), 379/34 of the Indian Penal Code.

The case of the prosecution in brief is that the informant, after purchasing house-hold articles from Madhubani market was returning back to her house and when



she reached near east Ghachhi of Makrujama, Dhobiahi tola at about 7:30 P.M., all the accused persons including the petitioners herein came there and took her to a lonely place where they started teasing her and thereafter threw her on ground and tore her Salwar Samij, resulting in her becoming half naked, however, in the meantime, villagers had come there and saved her.

The learned counsel for the petitioners has submitted that the petitioners are innocent, have been falsely implicated in the present case and are having clean antecedent. It is further submitted by referring to paragraph-8 (K) of the present petition that after investigation, the police has filed charge sheet only under sections 341, 323 and 354 of the Indian Penal Code though the FIR was registered under sections 341, 323, 354(B), 379/34 of the Indian Penal Code, hence the allegation of any sort of rape has been disbelieved. It is further submitted that the impugned order dated 3.1.2020 demonstrates that the learned Sessions Judge has also recorded in the 2nd page of the said order that on perusal of paragraph- 6 and 18 of the case diary, it appears that the witnesses have not spoken about outraging the modesty of the lady in question.

The learned A.P.P. appearing for the State has vehemently opposed the prayer for anticipatory bail.



Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the fact that firstly the police has not filed the charge sheet under Section 379 of the Indian Penal Code and secondly the witnesses have not spoken about outraging modesty of the lady in question, as also since the petitioners are having clean antecedent, I deem it fit and proper to admit the petitioner to the privilege of anticipatory bail.

Accordingly, in the event of arrest or surrender before the learned court below within a period of four weeks from today, the petitioner, above-named, shall be released on anticipatory bail on furnishing bail-bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Madhubani in connection with Mahila Madhubani P.S. Case No. 54 of 2018 (CR) Case No. 1130 of 2018, subject to the conditions as laid down under Section 438(2) Cr. P.C.

(Mohit Kumar Shah, J)

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