

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.5893 of 2020**

Arising Out of PS. Case No.-232 Year-2017 Thana- RAGHUNATHPUR District- Siwan

1. UDAY SINGH @ UDAY PRATAP Son of Majister Singh Resident of Village - Gabhirar, P.S.- Raghunathpur, District- Siwan.
2. Kamal Singh @ Kamaldev Singh Son of Late Khub Lal Singh Resident of Village - Gabhirar, P.S.- Raghunathpur, District- Siwan.
3. Dwarika Singh Son of Late Shankar Singh Resident of Village - Gabhirar, P.S.- Raghunathpur, District- Siwan.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Kanhaiya Pd. Singh, Sr. Advocate
For the Opposite Party/s : Mr.Nand Kishore Prasad, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 28-08-2020 Heard Mr. Kanhaiya Prasad Singh, learned Senior Counsel for the petitioner and Mr. Nand Kishore Prasad, learned A.P.P. for the State.

Though in this case the informant has appeared on his own and the Bench Officer has informed that link was sent to him but learned counsel for the informant is not present.

Petitioners, in the present case, are seeking pre-arrest bail in connection with Raghunathpur P.S. Case No. 232 of 2017 registered for the offence under Sections 341, 323, 448, 376, 364, 511, 504, 506/34 of the Indian Penal Code and Section 12 of the POCSO Act.



Earlier this Court had called for the case diary and the same has been received.

Learned Senior Counsel representing the petitioners submits that in this case the allegations were made against petitioner no. 1 that he had entered in the house of the informant and attempted to commit rape upon her. So far as petitioner no. 2 & 3 are concerned, it is alleged that when petitioner no. 1 was caught by the father of the informant then petitioners no. 2 & 3 along with co-accused Magister Singh reached there lashed with Lathi Danda and after assaulting the brother Raju Singh of the informant and father Manan Singh, they forcibly took away petitioner no. 1 from the clutches of the informant's father.

Learned Senior Counsel has drawn attention of this court towards the materials collected in course of investigation. The independent witnesses have made statements in paragraph 17, 30, 31 and 32 of the case diary and all of them have stated that Magister Singh happened to be the Trustee of the Brahmsthan Temple where during the Navratra the boys and girls of the village were coming for Puja and at this time the brother Raju Singh of the informant was playing filthy song which was objected to by co-accused



Magister Singh because of which he was badly beaten. Magister Singh lodged Raghunathpur P.S. Case No. 162/2017 against the brother of the informant and others. Earlier also a case bearing Raghunathpur P.S. Case No. 06 of 2016 was registered against him and it is only in order to harass said Magister Singh and these petitioners who belong to the same family the present F.I.R. was lodged by the informant. The F.I.R. was initially not lodged by the police station and then after sending the same to the Superintendent of Police but thereafter got it referred to police station through the process of the court. Even during supervision at the level of Superintendent of Police the allegations were found false and accordingly a final form was submitted stating that the case is false but the learned Magistrate has differed with the police report and took cognizance of the offences alleged.

Learned Senior Counsel has also pointed out that so far as Magister Singh is concerned he has already been granted privilege of anticipatory bail by a learned coordinate Bench of this Court in Cr. Misc. No. 85411/2019 (Annexure '7').

Learned A.P.P. for the State has though opposed the prayer for anticipatory bail of the petitioners but upon hearing



learned Senior Counsel for the petitioners and upon noticing the materials collected in course of investigation by police and the fact that the co-accused Magister Singh has already been granted privilege of anticipatory bail by a learned coordinate Bench of this court, this Court is inclined to grant privilege of anticipatory bail to the petitioners, let the petitioners above-named, in the event of their arrest or surrender within a period of four weeks from today in connection with Raghunathpur P.S. Case No. 232 of 2017 be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge 1st – cum – Special Judge, Siwan, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;



(iii) a condition that the person shall not leave India
without the previous permission of the Court.

(Rajeev Ranjan Prasad, J)

Rajeev/-

U		T	
---	--	---	--

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

