

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6869 of 2020

Arising Out of PS. Case No.-611 Year-2019 Thana- SASARAM NAGAR District- Rohtas

1. Rahul Kumar Mahto, S/o Rajesh Mahto, R/o Mohalla- Sherganj, P.S.- Sasaram (T), District- Rohtas
2. Rajesh Kumar @ Rajesh Mahto, S/o Shyam Lal Singh, R/o Mohalla- Sherganj, P.S.- Sasaram (T), District- Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Surendra Kumar Mishra, Advocate
For the Opposite Party/s : Mr.Sadanand Paswan, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 18-06-2020 The matter has been listed today for consideration through video conferencing in view of the nationwide lockdown on account of COVID-19 pandemic.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.

Heard learned counsel for the petitioners and the learned APP for the State.

The petitioners are apprehending their arrest in connection with Sasaram (T) P.S. Case No.611 of 2019 read with POCSO Case No.68/2019 registered for the offence punishable under Sections 341, 323, 354, 504/34 of the Indian



Penal Code and Section 3(1)(r)(s) of the SC/ST Act and Section 8 of the Protection of Children from Sexual Offences (POCSO) Act.

The informant has alleged that the petitioners were in the habit of eve-teasing his daughter and abusing her with filthy language. Along with four to five friends, the petitioners are alleged to have caught the hand of the informant's daughter and tore her clothes. When the informant's son went to raise his objection, the petitioners have allegedly assaulted him and abused him using his caste name.

Petitioners' counsel submits that *prima facie* the allegations are highly improbable as it does not stand to any reason that petitioner no.2-father and petitioner no.1-son would jointly indulged in such eve-teasing and alleged outraging of modesty. The case is based on extraneous considerations. From the F.I.R. itself, it is apparent that the informant was not an eye-witness to the occurrence. The allegation regarding hurling abuses by caste name is not in public view and as such, offences under Section 3(1)(r)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are not made out. The case has been compromised between the parties by filing a joint compromise petition (Annexure 2 of the bail application).



Learned APP for the State has opposed the prayer for pre-arrest bail and objected to maintainability of the same in view of the statutory bar under Section 18 of the SC/ST Act.

Considering the rival submissions, this Court is inclined to accept the submissions advanced by the petitioners' counsel for the limited purposes of grant of pre-arrest bail to the petitioners.

Accordingly, let both the petitioners, above named, in the event of their arrest or surrender before the court below within a period of four weeks from today, 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 the learned 1st Additional Sessions Judge, Sasaram, Rohtas, in connection with Sasaram (T) P.S. Case No.611 of 2019 read with POCSO Case No.68/2019, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

(i) That one of the bailors of each of the petitioners will be a close relative of the petitioners who will give an affidavit giving genealogy as to how he is related with the petitioners concerned. The bailors will also undertake to inform the court if there is any change in the address of the petitioners.



(ii) That the petitioners will be well represented on each date and if they fail to do so on two consecutive dates, their bail bonds will be liable to be cancelled.

(Madhuresh Prasad, J)

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