

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20248 of 2020

Arising Out of PS. Case No.-29 Year-2019 Thana- CHHATAPUR District- Supaul

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1. SANT KUMAR @ SUMAN KUMAR Son of Rupam Yadav @ Rupnarayan Yadav Resident of Tikuliya, P.S. Kumar Khand, District - Madhepura.
 2. Dhirendra Kumar Yadav Son of Deep Narayan yadav Resident of Tikuliya, P.S. Kumar Khand, District - Madhepura.
 3. Krishna Kumar Yadav Son of Deep Narain Yadav Resident of Tikuliya, P.S. Kumar Khand, District - Madhepura

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bam Bahadur Jha, Adv.
For the Opposite Party/s : Mr. J. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 10-09-2020 The court proceeding has been conducted through virtual mode.

Since the court proceeding is not functional in physical mode, due to present Pandemic, Covid -19, the present case has been listed with defects.

Learned counsel for the petitioners undertakes to remove the defect(s) within a period of four weeks of resumption of court proceeding in physical mode.

If the defect(s) is not removed within the undertaken period, the office will place the matter again.

Heard learned counsel for the petitioners and the State.



The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 363 and 366A/34 of the IPC.

The prosecution case, as per the written report of Deependra Yadav, submitted to the S.H.O., Rajeshwar O.P. Police Station is to the effect that he daughter of the informant, as usual, on 01.02.2019 at about 2 P.M., left the house to take tuition, but she did not return. Thereafter, during search, two known persons of the informant, namely, Manoj Yadav and Birendra Yadav suggested that the victim was kidnapped by co-accused Om Prakash Kumar, Mithilesh Kumar and the petitioner Sant Kumar @ Suman Kumar and she has been taken by a car.

Learned counsel for the petitioners submits that for the alleged occurrence of 01.02.2019, the written report was submitted on 04.02.2019 and there is no explanation for such delay. The victim in her statement, recorded under Section 164 Cr. P.C., got her age recorded as 17 years when the court assessed her age as such and in the statement she did not name any one including the petitioners, though she stated that she was taken forcefully and she was seduced and thereafter she came back along with her parents which suggests that the victim was



not recovered by the police. It is further submitted that during investigation, the statement of the victim has been recorded under Section 161 Cr. P.C., where she has stated that she went with co-accused Om Prakash, after taking tuition, with whom, she was in love and she has performed marriage with him and she did not name the petitioners. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP for the State submits that the FIR suggests that the petitioners are named in the FIR with specific accusation.

Considering the fact that the victim, in her statement either recorded under Section 164 Cr. P.C. or recorded under Section 161, did not name the petitioners, during medical examination, the age of the victim has been assessed as 19 to 21 years when no sign of rape has been found, on the body of the victim coupled with statement made in paragraph no.3 of the petition to the effect that the petitioners are not having any criminal antecedent, let the petitioner above named be released on anticipatory bail for the present provisionally for a period of three months, in the event of arrest or surrender before the learned court below within a period of six weeks, on furnishing



one surety to the satisfaction of the learned C.J.M., Supaul, in connection with Chhatapur P.S. Case No. 29 of 2019, subject to the condition as laid down Under Section 438 of the Cr. P.C.

However, in view of the present pandemic COVID- 19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioners which may be transmitted by such surety on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioners which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) each with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned C.J.M., Supaul, in connection with Chhatapur P.S. Case No. 29 of 2019.

The learned Court below will be at liberty to extend the period of provisional anticipatory bail further if the court proceeding in physical mode will not resume in next three



months.

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

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