

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25182 of 2020

Arising Out of PS. Case No.-50 Year-2019 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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1. Sumanji Kumar @ Suman Kumar S/o Raj Kumar Sah Resident of Village-Piprhi, P.S.-Babubarhi, District-Madhubani.
 2. Fudan Sah @ Budhan Sah S/o Raj Kumar Sah Resident of Village-Piprhi, P.S.-Babubarhi, District-Madhubani.
 3. Sunita Devi W/o Raj Kumar Sah Resident of Village-Piprhi, P.S.-Babubarhi, District-Madhubani.
 4. Buchchi Devi W/o Fudan Sah Resident of Village-Piprhi, P.S.-Babubarhi, District-Madhubani.
 5. Ramanji Kumar @ Ramanji Sah S/o Raj Kumar Sah Resident of Village-Piprhi, P.S.-Babubarhi, District-Madhubani.
 6. Raj Kumar Sah S/o Fudan Sah Resident of Village-Piprhi, P.S.-Babubarhi, District-Madhubani.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Ms. Namrata Mishra, Adv.
For the Complainant : Mr. Sanjay Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 13-11-2020 Heard learned counsel for the petitioners and Mr. Sanjay Kumar Jha, learned counsel for the complainant via video conferencing.

Nobody joined the Court proceedings on behalf of the State.

By way of the present application preferred under Section 438 of the Code of Criminal Procedure, the petitioners have prayed for grant of pre-arrest bail in connection with



Complaint Case No. 50 of 2019 registered for the offences punishable *inter alia* under Sections 376 and 511 of the Indian Penal Code and Section 12 of the POCSO Act.

Learned counsel appearing for the petitioners submitted that the allegation made against the petitioners is false and fabricated. The complainant Puja Kumari is the cousin sister of petitioner no.1 Sumanji Kumar @ Suman Kumar. From perusal of the complaint, it would be evident that there is admitted land disputed existing from before between both the parties. She contended that so far as the allegations under Sections 376, 511 of the Indian Penal Code and Section 12 of the POCSO Act are concerned, they have been levelled in order to make the offence non-bailable, as all other sections are bailable in nature.

Opposing the application for grant of pre-arrest bail to the petitioners, learned counsel appearing for the complainant submitted that as per the complaint case, on 24.06.2019, on account of taking water from hand pump, the petitioner no. 1 Sumanji Kumar @ Suman Kumar entered into the house of the complainant when she was alone and tried to commit rape and, on protest, he assaulted her and her sister, who had come in her rescue.



Replying the contentions advanced on behalf of the complainant, learned counsel appearing for the petitioners submitted that though the alleged occurrence is said to have taken place on 24.06.2019, the complaint was filed before the court after an inordinate and unexplained delay on 2.07.2019.

Regard being had to the allegations made in the complaint, the submissions advanced at the bar, the inordinate delay in lodging the complaint and the statement made in para 3 of the application that the petitioners bear no criminal antecedent, they are directed to be released on bail, in the event of their arrest or surrender, on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional District Judge-cum-Special Judge, POCSO Act, Madhubani in connection with Complaint Case No. 50 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Since the court proceedings are being conducted through virtual mode and normal court functioning has not been restored till date, it is considered appropriate to adopt the following procedure for communication of the present order:-

- (i) The order, which has been dictated during the course



of proceeding of the virtual court, shall be communicated to me on my e-mail by the Sr. Secretary.

- (ii) The corrected copy of the order shall be transmitted by me from my e-mail id to the Sr. Secretary, which shall be treated to be an authentic copy of the order passed by this Court in the present proceeding.
- (iii) Hard copy of the order duly signed by me shall be preserved in my residential office for documentation and future use, if any.
- (iv) Let steps be taken by the Sr. Secretary/registry for up-loading of the present order without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J)

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