

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29004 of 2020

Arising Out of PS. Case No.-141 Year-2018 Thana- KHAJAULI District- Madhubani

1. Prakash Paswan, Son of Srichand Paswan, Resident of Village - Ekdara, P.S.- Khajauli, District - Madhubani.
2. Tuntun Paswan, Son of Late Lakhan Paswan, Resident of Village - Ekdara, P.S.- Khajauli, District - Madhubani.
3. Bhadai Paswan, Son of Bhadai Paswan, Resident of Village - Ekdara, P.S.- Khajauli, District - Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav, Advocate
For the Opposite Party/s : Mr. Rajendra Nath Jha, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 26-11-2020 Since as of now the Courts have not resumed normal physical hearing, the matter has been listed today for consideration through video conferencing.

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.

Mr. Rajendra Nath Jha, learned APP is appearing for the State as it is submitted that the brief has been allotted to him by the office of Advocate General.

Heard learned counsel for the petitioners and the



learned APP for the State.

The petitioners seek bail in connection with Khajauli P.S. Case No.141 of 2018 registered for the offence punishable under Sections 341, 323, 376, 313, 452, 504, 34 of the Indian Penal Code and Section 3/4 of the POCSO Act, 2012.

The prosecution case alleges rape being committed upon the informant by co-accused Khoka Paswan and Bikram Paswan repeatedly for eight months prior to the lodging of the case, which subsequently has been converted into a police case.

It is submitted by the petitioners' counsel that the entire prosecution case is false and stands belied by deposition of the victim recorded under Section 164 Cr.P.C. (Annexure 2). Against the petitioners, at best, there is an allegation that they have subsequent to the commission of rape by other accused persons helped in abortion of foetus. The petitioners have claimed to have clean past and similarly situated co-accused Yugati Paswan has been allowed bail in Cr.Misc. No.82283 of 2019. The petitioners are said to be in custody now since 02.03.2020 when they had surrendered in Court.

Learned APP for the State has opposed the prayer for bail.

Considering the rival submissions, this Court is



inclined to allow the petitioners' prayer for bail.

Accordingly, let the petitioners, above named, 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 learned 1st Additional District & Sessions Judge cum Special Judge, POCSO Act, Madhubani, in connection with Khajauli P.S. Case No.141 of 2018, 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.

This Court would expect that the petitioners' counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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