

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62081 of 2019

Arising Out of PS. Case No.-390 Year-2013 Thana- SONEPUR District- Saran

-
1. BHOLA RAI Son of Ashok Rai Resident of Village- Sabalpur, P.S.- Sonepur, Saran.
 2. Mohan Rai Son of Ramnath Rai Resident of Ghagha Ghat, P.S.- Sultanganj, District- Patna.
 3. Ashok Rai Son of Munnilal Rai Resident of Bangali Tola, P.S.- Sonepur, Siwan.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Ishwari Prasad

For the Opposite Party/s : Mr.Arun Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 06-03-2020 Heard learned counsel for the petitioners and learned
APP for the State.

The instant application for anticipatory bail has been filed by the petitioners apprehending their arrest in connection with Sonepur P.S. Case No. 390 of 2013, registered for the offence punishable under sections 376 and 34 of the Indian Penal Code.

As per the allegation in the FIR, it is stated by the informant that while she had gone across the river and after offering prayer, was returning back, some accused persons started to misbehave with her. Thereafter, they forcibly took her



in an other direction where the other boys reached and two of them committed rape on her.

It is submitted by learned counsel for the petitioners that the petitioners are not named in the FIR. It was registered against four unknown. It is further submitted that statement of the informant was subsequently recorded under section 164 Cr.P.C. wherein her statement changed from what she had narrated in the FIR. As such, it is submitted that her statement cannot be relied upon. It is further submitted that the petitioners had no knowledge about the pendency of the case and it was only in the year 2019 that warrant was issued and immediately thereafter they moved for grant of anticipatory bail. It is further submitted that the petitioners have no criminal antecedent.

It is submitted by learned APP for the State that the the case, in which petitioners are praying for anticipatory bail, is of the year 2013 and there is no explanation for the delay in moving this application for bail. It is further submitted that from the description in the FIR together with her statement under section 164 Cr.P.C., she claimed that she can identify the accused persons on seeing them again. Referring to the order of the learned Court below it is stated that the rejection order i.e. dated 29.05.2014 is also of more than five years back wherein it



has been recorded that during investigation the witnesses who are boatman have disclosed the name of these petitioners. They can be expected to know the name of these petitioners. In the FIR the informant described the accused as a boatman.

Having heard learned counsel for the parties and in the facts and circumstances of the case as stated above, this Court is not inclined to enlarge the petitioners on anticipatory bail and, as such, the same is rejected.

The petitioners are directed to surrender in the Court below within a period of four weeks

(Partha Sarthy, J)

sushma/-

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

