

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 78097 of 2019

Arising Out of PS Case No.-189 Year-2019 Thana- K. HAT District- Purnea

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1. Bindeshwari Kumar, aged about 54 years (Male), Son of Tej Narayan Singh @ Tej Narayan Yadav.
 2. Priyanka Kumari, aged about 22 years (female), Wife of Pranav Pratik, Daughter of Bindeshwari Kumar.
Both resident of Village - Koshihapur, P.S.- Raniganj, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Dr. Bidhu Ranjan, Advocate
For the State	:	Mr. Prem Kumar Jha, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 25-08-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Yogesh Chandra Verma, learned senior counsel along with Dr. Bidhu Ranjan, learned counsel for the petitioners and Mr. Prem Kumar Jha, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioners apprehend arrest in connection with K Hat PS Case No. 189 of 2019 dated 18.03.2019, instituted under Sections 363/34 of the Indian Penal Code.



4. The allegation against the petitioners and two others is of abduction of the son of the informant.

5. Learned counsel for the petitioners submitted that they are not named in the FIR. It was submitted that only later on, they have been made accused. It was submitted that the fact is that the son of the informant had married the petitioner no. 2, who is the daughter of petitioner no. 1. In support thereof, learned counsel drew the attention of the Court to the marriage certificate issued by the concerned *Mandir* and also the affidavit affirmed by both the parties. Learned counsel submitted that even the boy on his return in his statement recorded under Section 164 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') has not alleged any criminal act against the petitioners. It was further submitted that after five months of marriage, petitioner no. 2 filed a complaint case under Section 498A of the Indian Penal Code alleging demand of dowry. Learned counsel submitted that the petitioners have been unnecessarily and maliciously made accused and have also suffered loss of social prestige.

6. Learned APP, from the case diary, submitted that the boy is aged under 15 years as is clear from the various entries in the school register and the certificates and also opined by the Court itself while recording statement under Section 164 of the



Code. Learned counsel submitted that, thus, even petitioner no. 2 appears to be a minor. Learned counsel submitted that in the statement under Section 164 of the Code, the boy has clearly stated that he was forcibly made to marry the petitioner no. 2 and was also assaulted. Thus, learned counsel submitted that the complicity of the petitioner no. 1, who is the father of petitioner no. 2 and petitioner no. 2, being the girl, is clearly indicated as they are the main persons who had a direct interest in committing such offence for getting the son of the informant forcibly married to petitioner no. 2. Learned counsel submitted that the stand of the petitioners is self-contradictory, inasmuch as, on the one hand, they are trying to show that the boy and the girl had married on their own accord and had also affirmed an affidavit to this effect whereas, after five months, in the complaint filed under Section 498A of the Code, the petitioner no. 2 has alleged that she was forcibly married and that the son of the informant had even committed rape on her. It was submitted that the two things clearly prove that the wrong doing was on the side of the petitioners and their family members. Learned counsel submitted that co-accused Arjun Kumar Yadav is in custody since over one year and investigation against these petitioners is still going on.



7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that in view of the statement of the victim boy under Section 164 of the Code and the age recorded therein by the Court, which is corroborated by the documents of the school etc., that he was a minor, and the materials produced on behalf of the petitioners showing the marriage and the affidavit and thereafter, a totally opposite picture being shown in the complaint case filed by the petitioner no. 2 against the victim boy, does not inspire confidence in the conduct of the petitioners. Moreover, as has rightly been submitted by learned APP, since the boy was under 15 years of age and the girl was also studying in Inter, clearly indicates that she may also be a minor.

8. Thus, taking an overall view in the matter, the Court is not inclined to grant anticipatory bail to the petitioners.

9. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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