

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 78933 of 2019

Arising Out of PS Case No.-982 Year-2019 Thana- HAJIPUR District- Vaishali

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1. Brijlal Mandal, aged about 51 years, Sex-Male, Son of Late Satan Mandal.
 2. Vinod Kumar, aged about 27 years, Sex-Male, Son of Brijlal Mandal.
 3. Rohit Kumar, aged about 25 years, Sex-Male, Son of Brijlal Mandal.
 4. Abhishek Kumar, aged about 18 years, Sex-Male, Son of S/o Brijlal Mandal.
- All are resident of village- Bakia Sukhai, P.S.- Barari, District- Katihar and at present resident of Railway Colony, Hajipur, Konhara Ghat, Block No. G-28-01, P.S.- Town Hajipur, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yugal Kishore, Advocate
For the State	:	Mr. Nitya Nand Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 23-09-2020

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

2. Heard Mr. Yugal Kishore, learned counsel for the petitioners and Mr. Nitya Nand Tiwary, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioners apprehend arrest in connection with Town (Hajipur) PS Case No. 982 of 2019 dated 30.10.2019, instituted under Sections 341, 323, 354(d), 504/34 of the Indian



Penal Code and Sections 8 and 10 of the Protection of Children from Sexual Offences Act, 2012.

4. The allegation against the petitioners and two others is of assaulting the informant and his family members and also trying to outrage the modesty of the daughter of the informant. It has been further alleged that the incident happened as one of the accused had teased the informant's daughter and when they had gone to make complaint, all the accused had started assaulting them and had come to their house and one of the accused had also tried to outrage the modesty and the neighbours had come and saved them and one of the accused was locked up in a room and the police had come and he was handed over to them leading to his arrest.

5. Learned counsel for the petitioners submitted that the allegations are false and in fact, the son of the petitioner no. 1, who is said to have been caught at the spot was forcibly taken away by the informant and others after they had called the petitioners in the field and the informant in a drunken state along with others had assaulted them and had abducted Abhinav Kumar, who was the son of the petitioner no. 1 and had taken him away demanding Rs. 2 lakhs for his return and that is how he was recovered from the house of the informant. It was submitted that



the informant has wrongly named the accused as Rohit Kumar, when his name was Abhinav Kumar, who has been released by the Court below. Learned counsel submitted that the petitioners have no criminal antecedent.

6. Learned APP, from the case diary, submitted that witnesses have supported the prosecution story and further that one of the sons of the petitioner no. 1 having been caught and kept in the house by the neighbours and the police arriving and taking him itself would show that the present case is true. It was submitted that the other case is clearly only to create a defence in the present case. It was submitted that in the other case lodged by the petitioner no. 1, against the informant and others, the time of the incident is said to be 9.30 PM on 29.10.2019, whereas as per the present FIR, the son of the petitioner no. 1 was caught at about 5.00 PM on 29.10.2019. Moreover, it was submitted that from the plain reading of the FIR lodged by the petitioner no. 1, it is apparent that the allegations are cosmetic and unbelievable as no reasonable person would believe that in a drunken state people would come and the petitioners would go to a field and there they would be assaulted and one of the sons of petitioner no. 1 would be abducted and Rs. 2 lakhs demanded for his release when the parties are all living in the same housing complex. It was further



submitted that mere wrong mentioning of the name of one of the sons of petitioner no. 1 would not falsify the case of the prosecution as the other son Abhinav, who was caught, is admittedly the son of petitioner no. 1 and it is quite natural that the petitioner no. 1 having many sons, the name of one of the sons being wrongly taken can be a *bona fide* error which cannot be said to falsify the prosecution case.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to the petitioners.

8. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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