

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19417 of 2021

Arising Out of PS. Case No.-46 Year-2019 Thana- MAHILA P.S. District- Muzaffarpur

1. NISHANT GUPTA S/O MR. JAWAHAR LAL GUPTA R/O VILLAGE-BARHAITA GANGA RAM, P.S.-HATHARI, DISTRICT-MUZAFFARPUR.
2. PINTU GUPTA S/O MR. TAPESHWAR SAH R/O VILLAGE-BARHAITA GANGA RAM, P.S.-HATHARI, DISTRICT-MUZAFFARPUR.

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Ms. Vaishnavi Singh, Advocate
For the Opposite Party/s	:	Mr. Mazharul Hassan, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 07-10-2021 Learned counsel for the petitioners undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioners, learned counsel for the informant and Mr. Akhileshwar Dayal, learned A.P.P. for the State.

This is the second of the petitioners to obtain bail in connection with S.T. No. 59 of 2020 arising out of Mahila P.S. Case No. 46 of 2019 registered for the offences punishable under Sections 376(D), 323 and 34 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences (POCSO) Act. The petitioner is in custody since 31.07.2019 and



he has got no criminal antecedent.

Earlier the prayer for bail of the petitioners was rejected vide order dated 17.03.2020 passed in Cr. Misc. No. 79507 of 2019.

Learned counsel for the petitioners has once again attempted to argue on the basis of the materials which were earlier considered by this Court while rejecting the prayer for bail of the petitioners. However, in course of submissions, learned counsel admits that now the prosecution evidence in the trial has been closed and the case is fixed for statement under Section 313 Cr.P.C.

Learned A.P.P. for the State submits that once the statement of the victim has been recorded in course of trial, her statement in course of trial would be important and that is not on the record. It is his further submission that when the case is fixed for statement under Section 313 Cr.P.C., this Court may not like to consider the prayer for bail on the basis of the materials which have already been noticed and the prayer of the petitioners was rejected earlier considering those materials.

Having regard to the facts and circumstances of the case, the fact that earlier the prayer for bail of the petitioner had been rejected after noticing the materials on the record and now



the trial has proceeded, all the prosecution witnesses stand examined, this Court is not inclined to release the petitioner on bail at this stage.

This Court expects that the learned trial court shall fix the case on an early date and all endeavours be made to conclude the trial within a period of six months from the date of communication of this order. In case the trial is not concluded within a period of six months for no reason attributable to the petitioners, the petitioners may renew their prayer for bail in the learned court below itself.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

