

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27294 of 2021

Arising Out of PS. Case No.-215 Year-2019 Thana- BAKHTIARPUR District- Saharsa

1. Prakash Mukhiya
2. Bijendra Mukhia
3. Chhote Lal Mukhia
All sons of Late Ghonghay Mukhia R/o village- Eathara, Ward No. 07, P.S.-
Bajnathpur, District- Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Mishra, Adv.
For the Opposite Party/s : Mr. Kalayan Shankar, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 13-12-2021 Heard learned counsel for the petitioners and learned
APP for the State.

Let the defect(s) be removed within two weeks of the
complete start of the physical Court in normal course.

Petitioners who are in custody since 30.09.2020 seeks
bail in connection with Bakhtiyarpur P.S. Case No.215 of 2019
registered for offence punishable under Sections 363, 366(A)/34
of the IPC and Section 376(DA) IPC as well as Section 4 of
POCSO Act corresponding to POCSO Case No.20 of 2020.

Prosecution case in brief is that the informant was
kidnapped and taken to Punjab and sexually exploited by the
petitioners and other two co-accused, namely, Nanku Mukhiya
and Chhotu Mukhiya who kept her for two months in Punjab.



Learned counsel appearing on behalf of the petitioners submits that the victim in her statement under Section 164 Cr.P.C. has made specific allegation against co-accused Nanku Mukhiya and Chhotu Mukhiya who have forcefully kept the victim in Punjab and allegation against these petitioners are that of helping Nanku Mukhiya in boarding the train to Punjab. Learned counsel appearing on behalf of the petitioners further submits that there is no specific allegation of sexually abusing the victim by the petitioners, above named, and as such petitioners may be enlarged on bail.

Learned counsel appearing on behalf of the State, however, opposes the prayer for grant of bail to the petitioners.

Having considered the rival submissions of the parties as well as materials on record and considering the fact that one Chhotu Mukhiya and Nanku Mukhiya who were enticing the victim and kidnapping her have already been released on bail by the court below, the petitioner *prima facie* made out a case to enlarge on bail also for the reason that there is no directed allegation against the petitioners, above named that they have sexually exploited the victim girl, let the petitioners, above named, is directed to be released on bail on furnishing bail bond of Rs.25,000/-(Twenty Five Thousand) with two sureties of the



like amount each to the satisfaction of learned First Additional Sessions Judge-cum-Special Judge, POCSO, Saharsa in connection with Bakhtiyarpur P.S. Case No.215 of 2019 corresponding to POCSO Case No.20 of 2020, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.

(2) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court.

(3) If the petitioners tamper with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioners.

(Purnendu Singh, J)

Prakash Narayan /-

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