

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30487 of 2020

Arising Out of PS. Case No.-136 Year-2019 Thana- ABADPUR District- Katihar

1. Md. Iliyash @ Iliyash Ali S/o Late Mujaffar @ Gajaffar R/o Village-Govindpur, P.S.-Abadpur, District-Katihar.
2. Mujjakir @ Mujjakir Hussain S/o Late Taslimuddin R/o Village-Govindpur, P.S.-Abadpur, District-Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bhola Prasad, Adv.
For the Opposite Party/s	:	Dr. Mritunjaya Kumar Gautam, Adv.
For the Informant	:	Dr. Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 17-02-2021 Heard learned counsel for the petitioners and learned
A.P.P for the State.

The instant application for anticipatory bail has been filed by the petitioners apprehending their arrest in connection with Abadpur P.S. Case No.136 of 2019, registered under sections 376, 341, 323 and 34 of the of Indian Penal Code.

As per allegation in the F.I.R, both the petitioners are stated to have committed rape on the informant.

It is submitted by learned counsel for the petitioners that the allegation as levelled in the F.I.R are false and concocted. For the alleged offence stated to have taken place on 5.3.2019, without any reasonable explanation for the delay, a complaint was filed in the Court 14 days later on 19.3.2019. Subsequently



an F.I.R. was registered and after detailed investigation into all aspects of the matter, a final report (Annexure-2) was submitted by the investigating authorities stating the case to be false. However, as the learned Court below was pleased to differ with the final report and take cognizance in the case, hence the apprehension of arrest and the instant application.

It is submitted by learned counsel for the petitioners that from the contents of the final report (Annexure-2) it would transpire that both the parties are related to each other and even on earlier occasion the informant had lodged a false case, F.I.R. at Annexure-3, against the petitioners. It is submitted that neither the medical report nor the witnesses have supported the allegation against the petitioners.

The application for bail is opposed by learned APP for the State and learned counsel appearing for the informant. It is submitted by learned counsel for the informant that based on the materials available in the case diary learned Court below has been pleased to take cognizance in the case. Not only the victim but also the independent witnesses as also the son of the victim who is himself an eye witness to the occurrence have supported the prosecution case. It is submitted that it is not a case for grant of anticipatory bail.



Case diary called for in the case has been received.

Having heard learned counsel for the parties and in view of the allegation levelled against the petitioners in the F.I.R., the statement of the victim under section 164 Cr.P.C. together with the material that has transpired during investigation, this Court is not inclined to grant anticipatory bail to the petitioners and the same is rejected.

However, in case the petitioners surrender within a period of 6 weeks from today and pray for regular bail, the application for bail shall be considered without being prejudiced by this order of rejection.

(Partha Sarthy, J)

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