

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39592 of 2021

Arising Out of PS. Case No.-94 Year-2020 Thana- MAHILA P.S. District- Kaimur (Bhabua)

1. RAMMURAT PRAJAPATI Son of Rambachan Prajapati
2. Nagendra Prasad @ Nagendra Prajapati Son of Late Ramchandra Prajapati
Both Resident of Village- Gangapur, Sonao, P.O. and P.S. Durgawati,
District- Kaimur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Priya Gupta, Adv.
For the Informant	:	Ms. Kiran Kumari Sharma, Adv.
		Mr. Sanjay Kumar Sharma, Adv.
For the Opposite Party/s :		Mr. Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 15-09-2021 Heard learned counsel for the parties through video conferencing.

The two petitioners have preferred this application for grant of anticipatory bail in connection with Mahila (Kaimur) P.S. Case no.94 of 2020 registered under sections 354 and 34 of the Indian Penal Code and section 8 of the POCSO Act.

As per the prosecution case, it is stated by 13 year old informant that the two petitioners herein caught hold of her, pressed her mouth and misbehaved with her. She states that in case hulla was not raised by her she would have been ravished. On the parents of the informant coming, it is stated that the



petitioner no.2 escaped while the petitioner no.1 was caught at the place of occurrence.

It is submitted by learned counsel for the petitioners that the allegations as levelled in the F.I.R. are false and concocted. The petitioners have been falsely implicated in the case to pressurize them from proceeding with an earlier case lodged by the brother of petitioner no.2 for the murder of his father. Referring to the F.I.R. of the same, which is Annexure-3 to the petition, learned counsel for the petitioners points out that the father and two uncles of the informant of the instant case are named accused therein. It is further submitted that brother of the petitioner no.2 also filed a petition before the police authorities mentioning about the threats being given by the family members of the informant against deposing in the case lodged for the murder of the father of petitioner no.2. It is submitted that police on investigation submitted final report dated 3.2.2021(Annexure-5) finding the case to be false, however by order dated 5.3.2021, learned Special Judge, POCSO Act, Kaimur at Bhabhua, differing with the final report was pleased to take cognizance under section 354A/34 of the Indian Penal Code and section 8 of the POCSO Act. In view of the above facts together with the petitioners not having any criminal



antecedent, it is prayed that the petitioners be enlarged on bail.

The application for bail is opposed by the learned A.P.P. for the State and learned counsel for the informant. It is submitted by learned counsel for the informant that the earlier application for anticipatory bail of the two petitioners was withdrawn on 14.6.2021. Not only the two petitioners are named in the F.I.R. but there is direct allegation against them levelled by the thirteen year old minor informant which has been supported in her statement under section 164 Cr.P.C. In spite of there being material in the case diary, the police authorities erred in filing final form against the petitioners and the learned trial court on the basis of the material in the case diary itself was pleased to take cognizance of the offences including under section 8 of the POCSO Act.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case and the material available in the case diary, the Court is not inclined to enlarge the petitioners on anticipatory bail and the application is rejected.

The petitioners are directed to surrender in the learned court below within a period of 6 weeks.

In view of the fact that final form was submitted



against the petitioners, on the petitioners moving for grant of bail, learned trial court will consider their application for bail without being prejudiced by this order of rejection.

(Partha Sarthy, J)

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