

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35424 of 2020

Arising Out of PS. Case No.-107 Year-2020 Thana- ARA MUFFSIL District- Bhojpur

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1. Anu Kumar, Son of Manoj Kumar @ Manoj Bin.
 2. Ajit Kumar, Son of Rup Narayan Bind.
- Both are R/o Village - Bhakura (Srinagar), P.S. - Ara (Muffasil), District - Bhojpur at Ara.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Ashok Kumar Jha, Advocate
For the Opposite Party : Mr. Shantanu Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

7 24-05-2021 Heard Mr. Ashok Kumar Jha, learned counsel for the petitioners and Mr. Shantanu Kumar, learned Additional Public Prosecutor for the State via video conferencing.

2. The petitioners seek bail in connection with POCSO Case No.23 of 2020 arising out of Ara (Muffasil) P.S. Case No.107 of 2020 registered for the offences punishable under Sections 341, 342, 323, 376-D, 504, 506 read with 34 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act.

3. The first information report was instituted by the mother of the victim on 13.04.2020 with respect to an occurrence which had taken place on 11.04.2020 at 07:00 am.



The informant has alleged in the first information report that on the relevant date and time of occurrence, when her minor daughter aged 13 years was alone in her house, the petitioners along with one Golu Kumar ravished her.

4. Learned counsel appearing for the petitioners submitted that there is an inordinate and unexplained delay of two days in institution of the first information report. He contended that prior to the institution of the present case, an FIR was instituted by one Samanti Devi, sister of the accused Golu Kumar alleging that the members of the prosecution party had confined her mother and assaulted the informant and others as a result of which, several persons have sustained injuries. He has drawn my attention towards Annexure-2 to the present case, which is an FIR relating to Ara (Muffasil) P.S. Case No.105 of 2020 registered *inter alia* for the offence punishable under Section 307 of the Indian Penal Code. He contended that the present case has been instituted with an oblique motive by the informant in order to save her family members from the case instituted by Samanti Devi on 12.04.2020. He further contended that the falsity of the case would be evident from the medical report submitted by the doctor, who had examined the victim wherein the age of the victim was assessed as 19 years and no



sign of recent sexual intercourse was noticed.

5. On the other hand, learned counsel appearing for the State has opposed the prayer for bail. He contended that it is a case of gang rape. He submits that simply because there is a counter case and there is some delay in institution of the first information report, the same would be of no consequence, as the informant and the victim have supported the prosecution case before the police.

6. Be that as it may, considering the totality of the circumstances, the petitioners, who are in custody since April, 2020, are directed to be released on bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Bhojpur at Ara in connection with POCSO Case No.23 of 2020 arising out of Ara (Muffasil) P.S. Case No.107 of 2020.

7. Since the court proceedings are being conducted through virtual mode and normal court functioning has not been restored till date, it is considered appropriate to adopt the following procedure for communication of the present order:-

- (i) The order, which has been dictated during the course of proceeding of the virtual court, shall be



communicated to me electronically by the Joint Registrar-cum-Addl. PPS.

- (ii) The corrected copy of the order shall be transmitted by me to the Joint Registrar-cum-Addl. PPS electronically, which shall be treated to be an authentic copy of the order passed by this Court in the present proceeding.
- (iii) Hard copy of the order duly signed by me shall be preserved in my residential office for documentation and future use, if any.
- (iv) Let steps be taken by the Joint Registrar-cum-Addl. PPS/registry for up-loading of the present order without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J.)

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