

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37276 of 2020

Arising Out of PS. Case No.-37 Year-2020 Thana- MAHILA P.S. District- Samastipur

1. Rajesh Raut, son of Ravilas Raut, Resident of Village- Chakhabbi Tole Turki, Ward No.08, P.S.- Vibhutipur, District- Samastipur
2. Chandradev Mahto @ Chand dev Mahto @ Paro, son of Bhola Mahto, Resident of Village- Chakhabbi Tole Turki, Ward No.08, P.S.- Vibhutipur, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rohit Kumar, Advocate
For the Opposite Party/s : Smt. Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 23-02-2021 Heard learned counsel for the petitioners and the learned APP for the State.

The petitioners seek bail in connection with Mahila P.S. Case No.37 of 2020, G.R. No.553/2020 registered for the offence punishable under Section 376(DA) of the Indian Penal Code and Section 4/18 of the POCSO Act.

The prosecution alleges rape having been committed by these two accused persons while the minor had gone to attend the call of nature.

It is submitted by the petitioners' counsel that the petitioners are suffering custody since 18.07.2020 on account of false allegations, which are evident from the fact that the



occurrence is of 12.06.2020, the FIR has been lodged on 13.06.2020, however, the same has been seen in court on 26.06.2020. Referring to Annexure 2, it is submitted that there is strong motive for false implication as inter-religion marriage has taken place being the foundation of false implication in between the family of the petitioners and the victim. Annexure 3, which is medial report, does not show any injuries and therefore the allegation is not corroborated. The charge-sheet must have been submitted by now and therefore the investigation is also complete.

Learned APP for the State has opposed the prayer for bail. It is submitted that the victim was between 15-16 years old in the statement under Section 164 Cr.P.C. though has been recorded as per the supervision note, however, does not form part of the case diary.

Considering the rival submissions, this Court is inclined to allow the petitioners' prayer for bail.

Accordingly, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-VI cum Special Judge, POCSO, Samastipur, in connection with



Mahila P.S. Case No.37 of 2020, G.R. No.553/2020, subject to the following conditions:

(i) That one of the bailors of each of the petitioners will be a close relative of the petitioners who will give an affidavit giving genealogy as to how he is related with the petitioners concerned. The bailors will also undertake to inform the court if there is any change in the address of the petitioners.

(ii) That the petitioners will be well represented on each date and if they fail to do so on two consecutive dates, their bail bonds will be liable to be cancelled.

This Court would expect that the petitioners' counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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