

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.333 of 2021

Arising Out of PS. Case No.-212 Year-2020 Thana- SARAI District- Vaishali

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1. ANIL KUMAR, Son of LATE SURYADEO SINGH Resident of Village - Rampur Ratnakar @ Sarsai, P.S.- Sarai, Distt.- Vaishali.
 2. SONU KUMAR, Son of SHRI ANIL KUMAR, Resident of Village - Rampur Ratnakar @ Sarsai, P.S.- Sarai, Distt.- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nilesh Kumar

For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 10-08-2021 Heard Mr. Ajay Kumar Thakur, learned advocate for the petitioners and Mr. Surendra Kumar, learned counsel for the informant. The State is represented by learned APP.

The petitioners seek bail in anticipation of their arrest in connection with Sarai P. S. Case No. 212 of 2020, dated 11.09.2020, instituted for the offences under Sections 376, 511 and 34 of the Indian Penal Code.

The accusation against the petitioner no. 1 is of keeping a lustful eye on the informant and on one day



an attempt also was made to outrage her modesty in which she got injured. So far as the petitioner no. 2 is concerned, he is the husband of the prosecutrix and it has been alleged against him that whenever she raised such complaint against her father-in-law, he did not support her; rather supported his father in such nefarious act.

Mr. Thakur, learned advocate for the petitioners has submitted that the narration in the F.I.R. does not inspire confidence. The relationship between the spouses is highly strained. Despite this, the petitioner no. 2 is ready to settle the matrimonial dispute with his wife (prosecutrix) as a son also is born out of the wedlock. The purpose of implicating the father of petitioner no. 2 (petitioner no. 1) is only to put undue pressure on the entire family to acceded to the unreasonable demands of the informant.

It has also been submitted that in the background of such disturbed marital relationship and



the petitioner no. 1 having executed a bond for behaving with the prosecutrix in a dignified manner, such an accusation appears to be quite off-line and for the purposes of wreaking vengeance on the entire family.

It further appears, it has been argued, that the victim herself is gainfully employed as an *Anganwari Sevika*, working in the same village as that of the petitioners and with this economic independence, it appears to be impossible that she would be subjected to such kind of physical misdemeanor.

The informant has not been residing in her matrimonial home for a long time.

As opposed to the aforesaid contentions, the learned counsel for the informant has submitted that she does not have any dispute with her husband except for the fact that he does not provide protection to her. But so far as petitioner no. 1 is concerned, he has been harassing the informant and despite his having executed a bond of good behaviour, he has not mended his ways.



On one occasion, about which reference has been made in the F.I.R., the informant got injured while rescuing herself from the onslaught made on her by petitioner no. 1.

After having heard the learned counsel for the parties and having perused the records, it appears that the family life of the prosecutrix is disturbed. The husband (petitioner no. 2) and the wife (informant) are not carrying on well. In this background, the possibility of false implication and exaggeration of the allegations cannot be ruled out.

However, since the petitioner no. 2 has only been alleged to have displayed a non-cooperative attitude towards his wife but nothing more, he is directed to be released on bail, in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties



of the like amount each to the satisfaction of the learned A.C.J.M. 16 cum Sub Judge 17, Vaishali at Hajipur, in connection with Sarai P. S. Case No. 212 of 2020, subject to the conditions as laid down under Section 438 (2) Cr.P.C.

With respect to petitioner no. 1, what has weighed with this Court is that even though this could be an instance of exaggeration of the allegation against him, but the fact that the petitioner no. 2 has not been staying along with petitioner no. 1 as he has required to go out to earn his livelihood, this Court deems it appropriate that he should surrender before the court below and seek bail.

While saying so, this Court has also taken note of the fact that on two earlier occasions, the petitioner no. 1 had executed a bond to keep good behaviour towards his daughter-in-law, which assurance, according to the allegation, has been breached with impunity.

For the reasons afore-stated, the prayer for bail



on behalf of petitioner no. 1 is rejected.

However, if the petitioner no. 1 surrenders before the court below and seeks bail, that shall be considered in the light of what has been stated above and an order shall be passed, without being prejudiced by the fact that the present petition on his behalf has not been entertained by this Court.

The application stands disposed off.

(Ashutosh Kumar, J)

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