

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.3516 of 2021**

Arising Out of PS. Case No.-306 Year-2019 Thana- SAHPUR District- Patna

1. CHINTU YADAV @ CHINTU KUMAR Son of Shyam Babu Yadav
Resident of Village-Usri, P.S.-Shahpur, District-Patna
2. Satish Kumar Son of Mithlesh Singh Resident of Village-Jirarpur, P.S.-
Arwal, Now P.S.-Bansi, Sahar Telpa, District-Arwal.

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Shashi Shekhar Singh, Advocate Mr. Mohit Raj, Advocate
For the Informant	:	Mr. Deepak Kumar Singh, Advocate
For the State	:	Mr. Mukeshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

6 11-08-2021 Heard learned counsel for the petitioners, learned
counsel for the informant and learned A.P.P. for the State.

Petitioners, in the present case, are seeking regular bail in connection with Shahpur P.S. Case No. 306/2019 registered for the offences punishable under Section 376(D)/34 of the Indian Penal Code and Section 5/7 of the Protection of Children from Sexual Offences Act and Section 3(i)(r) of SC/ST Act.

As per the First Information Report, the victim girl was taken away by the co-accused Punam Devi for some personal reasons in the hospital where she called for a four-wheeler in which three other persons were already seated and along with them the victim girl was taken in the vehicle for having a visit to Bihar Sharif for touring purpose. It is alleged that co-accused

Jilendra Yadav took the victim girl to his sister's room where all the three co-accused committed rape with the victim girl, she became unconscious and after some time when she regained consciousness then she was brought back to home but was threatened not to say the occurrence to anybody else. She did not disclose this occurrence to her parents.

Learned counsel for the petitioners submits that the present F.I.R. has been lodged on 02.08.2019 in respect to the alleged occurrence which had taken place in the month of January 2019. The exact date of occurrence is not stated in the F.I.R.

Learned counsel further submits that in course of investigation it has come through independent witnesses in paragraph 12, 13 & 15 that a false case has been registered because of prior enmity.

It is further submitted that considering the huge delay in lodging of the F.I.R. and other reasons the learned coordinate Benches of this Court has granted bail to the co-accused Punam Devi in Cr. Appeal (SJ) No. 522/2020 and to the co-accused Jilendra Yadav in Cr. Misc. No. 7451/2020. The case of the petitioners stands on similar footing with the co-accused.

Learned A.P.P. for the State has though opposed the prayer for regular bail of the petitioners but at the same time submits that the independent witnesses have stated about the prior

enmity and lodgment of a false case. So far as these petitioners are concerned, the investigation against them was pending for a long time and recently charge-sheet has been filed against them on 08.01.2021 but it is not known as to how much time will be taken in conclusion of trial.

Considering the facts and circumstances of the case, the submissions and the materials noted hereinabove by this Court and the report of the learned trial court not indicating any expected period for completion of trial, this Court, finding that the petitioners are similarly situated with the co-accused, directs release of the petitioners above-named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned 1st Additional District & Sessions Judge, Patna in connection with Shahpur P.S. Case No. 306 of 2019, Special Case No. 146 of 2019, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make

any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

And further condition that after release on bail, the petitioners will not come in contact with the informant/victim and her family during trial and violation of this condition shall invite action towards cancellation of bail.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.