

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.150 of 2021**

Arising Out of PS. Case No.-30 Year-2020 Thana- MAHILA P.S. District- Siwan

RAJ KUMAR @ RAM KUMAR Son of Late Dhru Sah Resident of Village-
Bherwania, P.S.- Bhagwanpur, Distt- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 6278 of 2021

Arising Out of PS. Case No.-30 Year-2020 Thana- MAHILA P.S. District- Siwan

RAJU BAITHA SON OF TERASH BAITHA RESIDENT OF VILLAGE-
BHERWANIA P.S- BHAGWANPUR, DIST- SIWAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 150 of 2021)

For the Petitioner/s : Mr.Raghav Prasad, Adv.

For the Opposite Party/s : Mr.Anil Kumar, APP

(In CRIMINAL MISCELLANEOUS No. 6278 of 2021)

For the Petitioner/s : Mr.Surendra Kishore Thakur, Adv.

For the Opposite Party/s : Mr.Anil Kumar, APP

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

4 14-07-2021 At the outset, learned counsel for the petitioner in

Cr.Misc.No.6278/2021 points out that inadvertently in
paragraph '1' the application has been stated to be an
application for grant of anticipatory bail. It should have been
typed as an application for grant of regular bail and, hence, the
correction may be allowed to be carried out.

Permission is granted to make correction in paragraph
‘1’ of the application.



Heard learned counsel for the petitioners in both the applications and learned A.P.P. for the State.

Petitioners in the present case are seeking regular bail in connection with Siwan Mahila P.S. Case No.30/2020 registered for the offences punishable under Section 376(DA) of the Indian Penal Code and 4/6 of the POCSO Act.

Learned counsel for the petitioners submits that as per the prosecution story the victim girl was caught hold of by accused Raju Baitha who committed rape on her and thereafter within five minutes two more persons namely this petitioner and one Suman Kumar committed rape on her. Thereafter she returned and washed her clothes and herself. Two days after the alleged occurrence the victim girl narrated the story to her mother who reported it to the police station on 22.05.2020.

Learned counsel submits that it is out and out a false story concocted by the informant. The I.O. had gone to the place of occurrence and has found that the place of occurrence being a pyne is full of mud and water, there was no sign of any steps and at this stage he was told that on the alleged date of occurrence pyne was in dry condition but he heard somebody in the crowd that the occurrence is around 10 days old. Learned counsel submits that the victim girl has been examined by



doctor of Sadar Hospital, Siwan. No mark of injury on any part of the body has been found, no spermatozoa either dead or alive has been found and the doctor has recorded that there is no evidence of recent sexual activity.

Learned counsel further submits that two days delay in lodging the FIR and washing of clothes and herself by the informant only indicates that this is a concocted case without there being any material. This has happened because the petitioners were resisting the visit of some unwanted person to the house of the informant in the village and for that reason this false case has been lodged. Not a single witness has come forward to support the version of the prosecution. It is lastly submitted that the co-accused Suman Kumar who is similarly situated to the petitioners has been granted bail by a learned coordinate Bench of this Court in Cr.Misc.No.39322/2020 vide order dated 19.03.2021.

Learned APP for the State is present and has opposed the prayer for regular bail of the petitioners. It is submitted that the victim girl has alleged that the petitioners along with co-accused Suman Kumar have committed rape on her. Learned APP has, however, gone through the case diary and accepts that in course of investigation no clothes of the victim girl has been



provided because she claims to have washed the clothes, the place of occurrence is said to be a pyne which was found full of mud and water and the doctor has opined that there was no evidence of recent sexual activity.

Considering the facts and circumstances of the case, though the allegations are serious in nature but the materials placed before this Court, as noticed above, and the fact that the one of the co-accused similarly situated has been granted bail by a learned coordinate Bench of this Court, the petitioners are in custody since 22.05.2020 and 25.05.2020 respectively, investigation against them is complete but the trial is not likely to be concluded in near future, makes the Court inclined to direct release of the petitioners on bail.

Let the petitioners above named of both the cases be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned Special Judge, POCSO, Siwan in connection with Siwan Mahila P.S. Case No.30/2020, 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.

(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'.

