

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 11367 of 2021

Arising Out of PS. Case No.-21 Year-2020 Thana- GOGRI District- Khagaria

1. SANJAY YADAV Son of Nakul Yadav Resident of Village-Siswa, P.S.-Gogri, District-Khagaria.
2. Eshvi Yadav Son of Kakur Yadav Resident of Village-Siswa, P.S.-Gogri, District-Khagaria.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr Vi Kumar, Sr Advocate with Mr Rana Sanjay Kumar Singh, Advocate
For the State	:	Mr Anil Prasad Singh, APP
For the Informant	:	Mr Manoj Kumar Jha, Advocate

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

8 13-09-2021 This case has been taken up for consideration today through Video Conferencing.

Heard learned counsel for the petitioners, learned counsel for the informant and the learned Additional Public Prosecutor (for brevity, *APP*) appearing for the State of Bihar.

The petitioners seek bail in Gogri Police Station (for brevity, *PS*) Case No 21 of 2020 instituted for the offence punishable under Sections 364, 506/34 of Indian Penal Code.

Petitioners are allegedly among six accused persons who have kidnapped the informant's husband at the dead of night.



It is submitted by the learned senior counsel for the petitioners that the husband of the informant and her son are accused in Gogri PS Case No 378 of 2019, alleged to have kidnapped the daughter of co-accused Manohar Yadav. Submission is that on account of evading the legal process and to settle scores with the instant petitioners, the instant prosecution has been lodged which is prima facie false and motivated, based on extraneous considerations. Daughter of co-accused Manohar Yadav was a minor and is still traceless. Submission is that under such circumstances, petitioners No 1 and 2 are in custody since 02.06.2020 and 01.07.2020 respectively.

The learned APP and learned counsel for the informant have opposed the prayer for bail. It is submitted that just three days after the kidnapping case arising out of Gogri PS Case No 378 of 2019 was lodged, informant lodged Gogri PS Case No 382 of 2019 on 11.11.2029 against the petitioners' side alleging that they had indiscriminately assaulted. Manohar Yadav's daughter was examined under Section 164 of Criminal Procedure Code. She has stated that she had gone on her own sweet will.

The matter has earlier been adjourned to enable the



informant's counsel to seek instructions whether the informant's husband and son have surrendered to the legal process pursuant to their implication in Gogri PS Case No 378 of 2019. Upon instructions, it is stated that, till date, they have not surrendered as they are terrorized by the accused persons.

From the above submissions and records available, it appears that the informant's son and her husband have not surrendered to the legal process since 08.11.2019. Statement of daughter of co-accused Manohar Yadav shows that she herself has admitted that she was a minor. Therefore, contention on behalf of the informant that she had gone on her own volition, having regard to the fact that she was a minor goes against the informant, at least at this stage for the purpose of bail.

Considering the rival submissions as also the facts and circumstances of the case, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioners' counsel. Prayer for bail is allowed. Let the petitioners, above named, be released on bail on each of them furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Judicial Magistrate, 01st Class, Khagaria in connection with Gogri PS Case No 21 of 2020 subject to the following



conditions:-

(i) That one of the bailors will be a close relative of the petitioners who will give an affidavit giving genealogy as to how he is related with the petitioners. The bailor 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 bond will be liable to be cancelled.

Learned counsel for the petitioners is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

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