

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19313 of 2021

Arising Out of PS. Case No.-19 Year-2020 Thana- MAHILA PS District- Katihar

1. MITHUN KUMAR MANDAL S/O DHANESHWAR MANDAL R/o village- Jagdishpur, P.S.- Barari, District- Katihar
2. Budiya Devi W/o Dhaneshwar Mandal R/o village- Jagdishpur, P.S.- Barari, District- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimal Kumar, Advocate

For the Opposite Party/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 03-02-2022 Due to the third wave of COVID-19 Pandemic, the matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading ‘For Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the petitioners and learned APP for the State through virtual mode.

Learned counsel for the petitioners is directed to remove the defects, as pointed out by the Office, within a period of four weeks after restoration of normalcy.

The petitioners are apprehending their arrest in a case registered under Sections 323, 504, 376, 511 of the Indian Penal Code and section 4 of POCSO Act.



The prosecution allegation, in short, is that the petitioner no. 1 tried to commit rape on the victim while petitioner no. 2 assaulted her mother.

It has been submitted on behalf of the petitioners that there is no allegation of tampering of witnesses alleged against the petitioners. The petitioners have falsely been implicated in the present case. The present prosecution has been brought on the basis of complaint case which was later on instituted as an F.I.R. under Section 156(3) of the Cr.P.C. From perusal of the complaint case, it appears that the alleged occurrence is said to have taken place on 15.05.2018 for which case was instituted on 16.07.2018 virtually after two months. The delay has not been explained by the prosecution. Due to previous enmity, the present prosecution has been brought. The petitioner no. 2 is lady.

On behalf of the State, it is submitted that the petitioners are named in the F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of covid cases due to outbreak of third wave of Covid-19 pandemic. Further this Court can also not lose sight of the fact



that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the aforesaid facts and circumstances, the petitioners, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on their personal bonds to the satisfaction of learned A.D.J.-VI-cum- Special Judge, Katihar in connection with Mahila P.S. Case No. 19 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioners shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) each with two sureties of the like amount each within a period of eight weeks to the satisfaction of the Court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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