

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10164 of 2022

Arising Out of PS. Case No.-189 Year-2021 Thana- PUPRI District- Sitamarhi

-
-
1. RAHAMTUN NISHA W/o Late Abdul Bari
2. Md. Shahjad @ Shahjad Alam S/o Late Abdul Bari
3. Md Shamshad @ Shamshad Alam S/o Late Abdul Bari
All are Resident of Village- Awapur, P.S.- Pupri, District- Sitamarhi.
- Petitioner/s
- Versus
- The State of Bihar
- Opposite Party/s
-
-

Appearance :

For the Petitioner/s	:	Mr. Uday Kumar, Advocate
For the Opposite Party/s	:	Mr. Shailendra Kumar Singh, APP
For the Informant	:	Mr. Dr. Bidhu Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 06-09-2022 Heard learned counsel for the petitioners, the informant and learned A.P.P. for the State.

Let the defect(s), if any, be removed within a period of four weeks.

The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 341, 323, 324, 325 and 366A/34 of the Indian Penal Code.

Learned counsel for the petitioners submits that petitioners are persons with clean antecedent and petitioner no. 1 is a senior citizen and is a woman.

The informant alleges that his minor grand daughter, aged about 17 years, went with petitioner no. 1 for taking a stroll on 02.06.2021 at 6:00 p.m. but the victim did not return



and on query the petitioner no. 1 gave evasive reply. Thereafter, on 03.06.2021, the petitioner no. 2 and 3 along with two named accused persons came and disclosed that his grand daughter is safe and would be released if Rs. 2,00,000/- by way of ransom is paid or else she would be sold for prostitution at Mumbai. Further, the son of the informant while going to the police station for instituting an FIR on coming to know about the occurrence was assaulted by the accused persons but he was saved on intervention of villagers in which the informant and his son received injury and were treated at the hospital, thus, alleges that accused has sold his grand daughter for prostitution and even broke her hand.

Learned counsel for the petitioners submits that from bare perusal of the allegation as alleged in the FIR, it would manifest that the same does not inspire confidence and the petitioners and the informant were known to each other. He further submits that it absolutely does not stand to reason that an accused who will commit the occurrence of kidnapping would himself go to the house of the victim for demanding extortion and, thus, would create evidence against himself. He also submits that the conduct of the informant also creates doubt with regard to the veracity of the allegation as



alleged in the FIR for the reason that in the FIR it is clearly alleged that on asking the petitioner no. 1 about his grand daughter, the petitioner no. 1 gave evasive reply. He further submits that since petitioner no. 1 gave evasive reply then the informant ought to have instituted a case then and there but he waited for petitioner no. 2 and 3 to come and disclose that they have kidnapped his grand daughter and, thus, were demanding extortion. Learned counsel next submits that the victim has come back and her statement was recorded under Section 164 Cr.P.C. and from the tenor of her statement, it would manifest that she has not alleged that the petitioners in any manner harmed her, assaulted her or committed any sexual act with her, though she supports the case of the prosecution to the extent that she was kidnapped. Learned counsel next submits that petitioners and the informant are having dispute with respect to construction of a brick wall on the land of the petitioners by the side of the informant for which Pupri P.S. Case No. 218 of 2012 was instituted from the side of the petitioners on 03.06.2021 and it was after filing of the said case the present FIR came to be instituted as a counter blast on 04.06.2021. Learned counsel further submits that petitioner no. 2 and 3 were assaulted by the side of the informant for which they treated at SKMCH,



Muzaffarpur and the fardbeyan of petitioner no. 3 was also recorded based on which the said case came to be instituted. Learned counsel next submits that the date of birth of the victim is 01.01.2003 and the present occurrence is alleged to have taken place on 02.06.2021, as such, she was a major on the date of occurrence and the allegation under section 366A of the IPC is not made out.

Learned A.P.P. for the State and the learned counsel for the informant opposed the prayer for anticipatory bail but are not able to meet the submission of the learned counsel for the petitioners that as to why an FIR was not instituted promptly on coming to know that petitioner no. 1 had given an evasive reply about the victim, further that a person who will commit crime he himself will create evidence against himself by disclosing the fact that he has committed an occurrence and is seeking extortion.

Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like



amount each to the satisfaction of the learned court below where
the case is pending/successor court in connection with Pupri P.S.
Case No. 189 of 2021, subject to the conditions as laid down
under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

Kundan/-

U		T	
---	--	---	--

