

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12937 of 2022

Arising Out of PS. Case No.-186 Year-2020 Thana- PURNEA SADAR District- Purnia

MD. ISMAIL SON OF MD. KARIM @ SAH KARIM, R/O VILLAGE-
DHOLBAZZA, P.S.- DHOLBAZZA, DISTRICT- ARARIA.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 13740 of 2022

Arising Out of PS. Case No.-186 Year-2020 Thana- PURNEA SADAR District- Purnia

MD. MUZZSAM @ MUZZSAM Son of Md. Akhatar, Resident of Village -
Dholbazza, P.s.- Dholbazza, Distt.- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 12937 of 2022)

For the Petitioner/s : Mr.Pramod Kumar Mallick

For the Opposite Party/s : Mr.Manoj Kumar

Mr. Shailendra Kumar

(In CRIMINAL MISCELLANEOUS No. 13740 of 2022)

For the Petitioner/s : Mr.Pramod Kumar Mallick

For the Opposite Party/s : Mr.Ram Sumiran Rai

Mr. Shailendra Kumar

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

2 27-09-2022 The learned counsel for the petitioners is directed to

remove all the defects pointed out by the office within one

month.

Heard the learned counsel for the petitioners as well

as the learned counsel for the informant and also heard Mr.

Shailendra Kumar, the learned Additional Public Prosecutor for



the State.

The petitioners apprehend their arrest in connection with Special Case No. 37 of 2020 registered for offence punishable under sections 341, 342, 323, 354(B), 354(D), 376, 511/34 of the Indian Penal Code.

The informant is a girl of 14 years. She states in her written report that petitioner Muzzsam used to tease her and also threatened her to lift from her house, if she did not obey his command. The victim went to her sister's home and when she was going to ease herself at 4 O'clock in the morning, three accused persons forcibly lifted her and at the point of *knife* attempted to commit rape with her after gagging her mouth by clothes.

The learned counsel for the petitioners has submitted that only attempt has been made and there is no allegation of rape. He has submitted further that the prosecutrix had love and affection with the petitioner Muzasam and she falsely implicated the accused persons

On the other hand, the learned counsel for the informant as well as the learned APP has submitted that it is not a case only attempt to rape, but the rape has been committed. In her statement under Section 164 of the Code of Criminal Procedure,



the victim has specifically stated that the petitioners and one co-accused Md. Sarwar have committed rape upon her.

In my view, it is not a fit case for anticipatory bail. Accordingly, it is rejected.

Office shall ensure that all defects are removed by the petitioners within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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