

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13216 of 2022

Arising Out of PS. Case No.-339 Year-2021 Thana- SONBERSA District- Sitamarhi

1. Dhiraj Kumar Son of Kesar Thakur Resident of village - Sonbarsa (Lalbandi), Ward No. - 12, P.S.- Sonbarsa, District - Sitamarhi
2. Nandan Kumar Son of Ramesh Kumar Resident of village - Sonbarsa (Lalbandi), Ward No. - 12, P.S.- Sonbarsa, District - Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Nand Kishore Prasad, A.P.P

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

5 18-08-2022 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from today.

The petitioners seek bail in connection with a case registered for the offenced punishable under Sections 376(D) of the Indian Penal Code and Section 4 of the POCSO Act.

The prosecution case, in short, is that when the informant was sleeping with her mother, two named accused persons, namely, Dhiraj Kumar and Nandan Kumar had taken away the informant in the house of Dhiraj Kumar and committed rape with her and when her mother saw them, she



locked the door from the outside, then they got her out from Dhiraj's house from back door.

Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. Further, it is submitted that from bare perusal of the F.I.R. itself, it transpired that the alleged occurrence has been taken place but no date and time has been mentioned in the F.I.R. It is also submitted that it is out of imagination that two persons (petitioners) entered into the house of the informant when she was sleeping with her mother and in presence of her mother any person will forcibly took away, nobody will raise alarm and when her mother will go at the place of occurrence then she went out from back door of the house of the accused and even at that time she did not raise alarm. He also states that the informant has been medically examined and the doctor did not found any sign of sexual assault, however, her age has been assets to be 14 to 17 years. Further, it is submitted that statement was recorded under Section 164 Cr.P.C. in which, she has narrated different story that petitioner no. 2 did not commit rape with her rather petitioner no. 1 committed rape with her and petitioner no. 2 was there at the that time. It is also stated that mother of the victim girl has not supported the prosecution case



so far allegation against petitioner no. 2 is concern. The petitioners are in custody since 04.12.2021, are persons with clean antecedent and charge-sheet has been submitted in the case.

Learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioners. It is submitted by learned counsel for the State that allegation against the petitioner no. 1 is supported by medical report also.

Considering the facts and circumstances of this case, I am not inclined to grant the bail of petitioner no. 1, namely, Dhiraj Kumar hence, the prayer for bail with regard to petitioner no. 1 is hereby rejected and petitioner no. 2, namely, Nandan Kumar is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) only with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-VI-cum-Special Judge, Sitamarhi in connection with Sonbarsa P.S. Case No. 339 of 2021.

(Khatim Reza, J)

Gaurav Kumar/-

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