

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37466 of 2021

Arising Out of PS. Case No.-60 Year-2021 Thana- MOTIPUR District- Muzaffarpur

1. SHIVJI SAH, Son of Late Dukha Sah, Resident of Village- Singaila, P.S.- Motipur, District- Muzaffarpur.
2. Shambhu Sah, Son of Late Dukha Sah, Resident of Village- Singaila, P.S.- Motipur, District- Muzaffarpur.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Ms, Vaishnavi Singh, Advocate
Mr. Malay Kumar Choudhary, Advocate
For the Opposite Party/s : Mr. Anant Kumar 1, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 18-01-2022 Learned counsel for the petitioners undertakes to remove the defects as pointed out by the Stamp Reporter within four weeks after start of normal functioning of this Court.

Heard learned counsel for the petitioners and Mr. Anant Kumar 1, learned APP for the State.

The petitioners in the present are seeking regular bail in connection with Motipur P.S. Case No. 60 of 2021 registered for the offences punishable under Section 366(A) of the Indian Penal Code. The petitioners are in custody since 25.02.2021. They have no criminal antecedent.

As per the prosecution story, the victim girl had gone to attend the reception organized in the neighbourhood, the



informant who happens to be the father of the victim girl along with his wife had also gone there. The victim girl was aged about 17 years, it is alleged that at about 9.30 P.M. she went in the backyard of the house to meet the call of nature but thereafter she did not return. The informant alleges that when his wife went in the backyard she found that her daughter had been in the clutch of few persons and they had caught hold of her. The wife of the informant came back and informed this fact to the informant whereupon the informant went there and in the torchlight he found that one Ramesh Kumar (brother of these two petitioners) along with few other boys were forcibly taking away the daughter of the informant. The informant is said to have tried to catch them but the said boys boarded a vehicle on the road and fled away.

In the second part of the F.I.R. it is alleged that when the informant went to the house of Ramesh Kumar to make complaint of this, his brother came out of the house and then they abused the informant and started beating him by hands and fists blow. It is alleged that the informant was told that Ramesh will marry the daughter of the informant and she would not be returned and if you would make complaint to this to the Police then the entire family will be killed.



Learned counsel for the petitioners submits that the allegation contained in the F.I.R. seems to be highly improbable inasmuch as the informant, his wife and daughter are said to have gone to attend a reception ceremony and then at about 9.30 P.M., it is claimed that the daughter of the informant had gone to the backyard of the house to ease out which is highly improbable. The occurrence is of 22.02.2021 and this F.I.R. has been lodged after two days on 24.02.2021 which only indicates that the informant was perhaps aware of the fact that his daughter was in love affair with some one and had eloped with her paramour. In any case these two petitioners have not been identified to be present in taking away the daughter of the informant and they have been implicated only to make the entire family an accused in the present case. The petitioners have otherwise no criminal antecedent and are in custody since 25.02.2021. They are full brothers of Ramesh but are separate in mess and business.

Earlier this Court had granted time to the learned A.P.P. for the State to bring the materials, if any, against these petitioners collected in course of investigation and the Investigating Officer had to file an affidavit but in course of hearing of this case neither any such materials has been brought



to the notice of this Court nor any further adjournment has been prayed for.

In the given facts and circumstances of the case, where these two petitioners are said to be the brothers of the named accused, these petitioners were not identified and the only allegation against them is that they had abused and beaten the informant when he had gone to make a complaint against the brother of these petitioners, there is otherwise no material against these petitioners before this Court and the petitioners have remained in custody for about 11 months, this Court directs release of the petitioner above named on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate 2nd (West), Muzaffarpur in connection with Motipur P.S. Case No. 60 of 2021, subject to the conditions as laid down under Section 437(3) of the Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the



acceptance of bail bonds in terms of the above-mentioned order
shall not be delayed for purpose of or in the name of
verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

vats/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

