

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46389 of 2021

Arising Out of PS. Case No.-23 Year-2020 Thana- MAHILA PS District- Buxar

-
-
1. KRISHNA KANT SINGH YADAV @ PAPPU KUMAR YADAV, Son of Bisheshwar Yadav Resident of Village - Jamauli, P.S. - Rajpur, District - Buxar, Bihar.
 2. SONU YADAV @ SONU KUMAR YADAV, S/O Shri Vakil Yadav Resident of Village - Jamauli, P.S. - Rajpur, District - Buxar, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Surendra Kumar Singh

For the Opposite Party/s : Mr. Dr. Ajeet Kumar

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

7 17-05-2022 Heard the parties.

Heard learned counsel appearing on behalf of the
petitioners and learned A.P.P. for the State.

Let the defect(s), if any, be removed within two
weeks of the complete start of the physical Court in normal
course.

The petitioners seek regular bail in connection with



POCSO Case No. 09 of 2020, arising out of Mahila (Buxar) P. S. Case No. 23 of 2020 for the offence punishable under Sections 376(D), 323, 341, 504 and 506 of the Indian Penal Code and Section 6 of the POCSO Act, 2012.

Prosecution story in brief is that the petitioners, above-named, have committed rape with the victim. The specific allegation against the petitioner no. 1, Krishna Kant Singh Yadav @ Pappu Kumar Yadav is that he had caught hand of the victim and petitioner no. 2, Sonu Yadav @ Sony Kumar Yadav had committed rape.

The statement of the victim was recorded under Section 164 Cr.P.C. where she has supported the allegation made in the F.I.R.

Mr. Surendra Kumar Singh, learned counsel for the petitioners has submitted that the petitioner along with her Nani are engaged in lodging frivolous cases against the villagers just to extract money and to tarnish their image and later they entered into compromise. In support of his contention, reference of some cases have been given by the learned counsel for the petitioners, viz., Buxar Complaint Case No. 980(C) of 2017; Rajpur P. S. Case No. 226 of 2019; and Buxar (Muffasil) P. S. Case No. 166 of 2017, in which compromise has been effected.



He further submits that so far as petitioner no. 1 is concerned, he was not present at the time of alleged incidence. The petitioner no. 1 is a student, aged about 20 years as it would appear from the cause-title of the bail application. His further submission is that even the victim has not alleged that petitioner has committed rape in her statement under Section 164 Cr.P.C. or in the F.I.R. The allegation against petitioner no. 1 is that he had held the hand of the victim. It is further submitted that the petitioner no. 1 is just about 20 years of age and is undergoing both biological as well as psychological changes at the best he may have been infatuated but that is also not sustainable as per the allegation made against him. Even the man of petitioner's age cannot be expected to be aware of the punishment for such act, which he has committed. He makes further submission that the Act has not taken into consideration such aspects with respect to the emerging adults who are either infatuated or are having some sort of platonic relationship.

The learned counsel for the petitioner has relied upon a judgement of the Madras High Court in the case of *Ajithkumar Versus State*, reported in 2022 SCC OnLine Mad 1961.

Mr. Manish Rai Sharma, learned counsel for the



informant submits that the allegation is corroborated with the injury report and several injuries have been found on the private part of the victim. The petitioner no. 1 has actively participated while the petitioner no. 2 had been found to have committed rape to the victim. Witnesses have also supported the allegation and offence and the case is of such nature that the same cannot be compromised. Hence, the petitioners above-named do not deserve to be released on bail.

Mr. Ajit Kumar, learned APP has also supported the submissions made on behalf of the informant.

Considering the fact that there is direct allegation against petitioner no. 2 that he had committed rape, supported by injury report as it would appear from paragraph 54 of the case-diary, I am not inclined to enlarge him on bail.

So far as petitioner no. 1 is concerned, he is aged about 20 years and he has made out a case that a child who has just emerged as an adult is bound to undergo certain biological as well as psychological changes in his body, the court below is directed to consider the judgement, laid down by the Madras High Court in case of *Ajithkumar Versus State*, reported in 2022 SCC OnLine Mad 1961, and pass appropriate order, without being prejudiced by the fact that the present petition on behalf



of petitioner no. 1 has not been entertained by this Court.

With the aforesaid observation / direction, the present application stands disposed off.

(Purnendu Singh, J)

skm/-

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

