

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48084 of 2021

Arising Out of PS. Case No.-41 Year-2021 Thana- MAINATAND District- West Champaran

1. Nasim Khatoon @ Nasima Khatoon W/o Sk. Faiyaz Resident of Village - Sukhlahi, P.s.- Mainatand, Distt.- West Champaran at Bettiah.
2. Najish Khatoon @ Najish Parween D/o Sk. Faiyaz Resident of Village - Sukhlahi, P.s.- Mainatand, Distt.- West Champaran at Bettiah.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Amit Srivastava, Sr. Advocate.
For the Opposite Party/s :	Mr. Aditya Narayan Singh.1, APP.
For the Informant :	Mr. Dhananjay Kumar Tiwary, Advocate.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 06-07-2022 Learned counsel for the petitioners is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Amit Srivastava, learned senior counsel for the petitioners, Mr. Dhananjay Kumar Tiwary, learned counsel for the informant and learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who have been made accused and put behind the bar in connection with Mainatand P. S. Case No. 41 of 2021 registered for the offences punishable under Sections 341, 323, 379, 354(B), 504 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act and later on



Section 302 of the Indian Penal Code has been added.

As per the prosecution case, it is alleged that on 30.03.2021, in the morning, while the daughter of the informant was going to attend the nature call, in the meantime, co-accused Shahid enticed her daughter. It is further alleged that the daughter of the informant told the entire episode whereupon, she along with the victim went to the house of Shahid thereupon, the accused persons started abusing and assaulting them.

Learned senior counsel appearing on behalf of the petitioners submitted that there is general and omnibus nature of allegation of assaulting the deceased with slap and fist and no specific allegation has been levelled against any of them, It is next submitted that even during the course of the post mortem only one bruise injury behind right ear has been found and the cause of death was kept pending till the report of chemical analysis, which creates doubt upon the prosecution story. It is also submitted that so far POCSO Act is concerned, the same is not applicable against the petitioners. It is lastly submitted that the petitioners being lady, having fair antecedent, are in custody since 01.04.2021, though after conclusion of the investigation, charge-sheet has been submitted. Learned counsel for the petitioners further submits that keeping the petitioners, who are



ladies, behind the bar would not serve any purpose.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the deceased was done to death by the F.I.R. named accused persons including the petitioners and post mortem report also supports the prosecution case.

Having considered the submissions made on behalf of the parties and taking into account the fact that the petitioners are ladies and there is general and omnibus nature of allegation that they assaulted the deceased with slaps and fists and moreover, they are in custody since 01.04.2021, let the petitioners, above named, be released on 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 learned Additional District & Sessions Judge VII-cum-Special Judge, POCSO Act, West Champaran, Bettiah in connection with Mainatand P. S. Case No. 41 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioners with further conditions which are as follows:-

- (i) The petitioners will cooperate in conclusion of the trial.
- (ii) They will remain present on each and every date



of trial till disposal of the case.

- (iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(Harish Kumar, J)

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