

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43154 of 2022

Arising Out of PS. Case No.-265 Year-2020 Thana- KRITYANAND NAGAR District-
Purnia

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1. Md. Osim Son of Md. Habibur Rahman @ Md. Haibur @ Habibur Resident of Village - Begampur, P.S.- K. Nagar, District - Purnea.
 2. Md. Habibur Rahman @ Md. Haibur @ Habibur Son of Late - Md. Idrish Resident of Village - Begampur, P.S.- K. Nagar, District - Purnea.
 3. Benga @ Amizul Son of Afzal Resident of Village - Begampur, P.S.- K. Nagar, District - Purnea.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 43350 of 2022

Arising Out of PS. Case No.-265 Year-2020 Thana- KRITYANAND NAGAR District-
Purnia

Md Josim Son of Md. Babibur Rahman @ Md. Haibur @ Habibur Resident of Village - Begampur, P.s.- K. Nagar, Distt.- Purnea.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 43154 of 2022)

For the Petitioner/s : Mr.Amit Kumar Anand, Adv

For the Opposite Party/s : Mr.Tarun Prasad Mandal, APP

(In CRIMINAL MISCELLANEOUS No. 43350 of 2022)

For the Petitioner/s : Mr.Amit Kumar Anand, Adv

For the Opposite Party/s : Mr.Narsingh Tanti, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 16-12-2022 Through video conferencing.

Both the criminal miscellaneous petitions have arisen out of same police station case number, hence they are being heard together and disposed of by a common order.



The learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard learned counsel for the petitioners and learned APPs for the State through video conferencing.

Petitioners seek regular bail in connection with Krityanand Nagar (K. Nagar) P.S. Case No. 265 of 2020 registered for the offences punishable under Sections 363, 365, 376 (D) and 376D A of the Indian Penal Code and Sections 4 and 6 of the POCSO Act.

Allegedly, the petitioners and some co-accused hosted the informant, her husband and her son and thereafter brought them at the House of co-accused Md. Kasim where the said co-accused raped the informant and later on the informant was taken to the house of other co-accused persons namely, Md. Azizul and Md Taimur who also raped the informant and thereafter some co-accused persons forcefully abducted the informant's daughter and took her to Banswari where co-accused Md. Biru committed rape on the informant's daughter.

The main submissions advanced by learned counsel Mr.Amit Kumar Anand, appearing for the petitioners are that in compliance with the direction of this Court the medical reports of the informant and her daughter have been received which show no external and internal injury on the body of the so-called victims



and the said medical opinion completely falsifies the allegation of rape made in the FIR and moreover against the petitioners there is no specific allegation and the main allegation of rape is against other co-accused persons. Further submission is that several co-accused persons namely, Md. Jullu Rahman, Md. Mahtab, Md. Motalif and Md. Badal have been granted bail by this Court vide orders passed in Cr. Misc. No. 8992 of 2021 and Cr. Misc. No. 6245 of 2021, the informant and the petitioners are relatives so the allegation made in the FIR is totally unbelievable and a matrimonial dispute in between both the parties is stated to be the genesis of the occurrence. Further submission is that the petitioners of Cr. Misc. No. 43154 of 2022 have fair and clean antecedent and they have been languishing in jail since 02.06.2022 and petitioner Md. Josim of Cr. Misc. No. 43350 of 2022 has been languishing in jail since 29.05.2022.

Learned APPs Mr.Tarun Prasad Mandal and Mr. Narsingh Tanti, appearing for the State in Cr. Misc. No. 43154 of 2022 and Cr. Misc. No. 43350 of 2022 respectively, have opposed the prayer for bail.

Having regard to the facts and circumstances of this case, considering the above submissions and mainly the facts that the medical opinion mentioned in the medical examination report of the informant and her daughter does not corroborate with the



allegation of rape made in the FIR as appears from the said reports which have been received in the light of the direction given on the last date by this Court and both the victims were medically examined after three days from the alleged date of occurrence and also taking into account the privilege of bail having been granted to some similarly situated co-accused persons mentioned above and the fact that all the petitioners have clean antecedent and their specific role in the alleged occurrence mentioned in the FIR has not been revealed, in the opinion of this Court all these petitioners deserve to a lenient approach of this Court, let the petitioners be enlarged on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the concerned Court in connection with Krityanand Nagar (K. Nagar) P.S. Case No. 265 of 2020.

(Shailendra Singh, J.)

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