

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43349 of 2022

Arising Out of PS. Case No.-332 Year-2021 Thana- CHHATAPUR District- Supaul

1. MITHILESH HAZARI @ SANJEEV KUMAR HAZARI @ SANJEEV KUMAR Son of Late Baidyanath Hazari @ Baijnath Hazari Resident of Village - Daharia (Darharia), P.s.- Chhatapur, Dsitt.- Supaul.
2. Swant Kumar Paswan @ Sawan @ Kaliya Paswan Son of Bhutto Paswan Resident of Village - Daharia (Darharia), P.s.- Chhatapur, Dsitt.- Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate
For the Opposite Party/s : Dr. Ajeet Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 13-12-2022 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 363, 365, 366(A) and 34 of the Indian Penal Code read with Sections 8/17 of the POCSO Act.

Learned counsel for the petitioners submits that petitioner no.1 has antecedent of one case, petitioner no.2 is a person with clean antecedent and the informant alleges that on 24.09.2021 at about 6:00 pm, when he had gone to his field and his minor daughter aged 14 years was at home, the named accused persons, including the petitioners, came and forcibly



kidnapped her in an auto, thereafter a search was made and he came to know that the accused persons took his daughter to Dharaiya.

Learned counsel for the petitioners submits that petitioners have been falsely implicated in the present case, it is next submitted that the victim was recovered and in her statement recorded under Section 161 of the Cr.P.C. she has not even whispered about the role of the present petitioners but when her statement was recorded under Section 164 of the Cr.P.C., she has named the petitioners but then does not allege any overt act against them, it is next submitted that allegation of rape is against Amresh Kumar Yadav. Learned counsel further submits that though in the FIR it has been alleged that victim is a minor aged about 14 years and had alleged that she was raped by Amresh but then her medical report negates the allegation of rape as it has come that her hymen was found intact, learned counsel further submits that even presuming what has been alleged is true, without admitting, then no overt act has been alleged against the petitioners nor it has been alleged that they were also present at the place of occurrence where Amresh had committed rape upon her. Learned counsel next submitted that purpose of arrest is not to punish but to ensure that the



investigation is not hampered, further the petitioners will cooperate in the investigation and will present themselves before the Investigating Officer of the case as and when required so that the investigation is not hampered and the truth also comes out.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory 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 the learned court below where the case is pending/successor court in connection with Chhatapur P.S. Case No. 332 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

However, in the event, if the Investigating Officer of the case files an application before the learned trial court bringing to its notice that the petitioners despite giving an assurance to this Court, are not cooperating in the investigation or are not appearing when called, the learned trial court after



giving an opportunity of hearing to the petitioners shall pass orders in accordance with law and shall also have the liberty to cancel their bail bonds and shall take all coercive steps to ensure that they are put behind bars.

Further, if the Investigating Officer of the case submits charge-sheet against the petitioners connecting them with the offence, then the present anticipatory bail order shall lose its effect.

The learned trial court is directed to send a copy of this order to the concerned Police Station.

(Satyavrat Verma, J)

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