

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56794 of 2021

Arising Out of PS. Case No.-8 Year-2021 Thana- MAHILA PS District- Khagaria

1. Dinesh Sharma Son of Ramdeo Sharma Resident of Village - Bhagwanchak, Police station - Gangaur in the district of Khagaria.
2. Krishna Nandan Sharma Son of Prakash Sharma Resident of Village - Bishanpur, Police Station - Muffasil in the district of Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar

For the Opposite Party/s : Mr.Navin Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 31-01-2022 Heard both parties through video conferencing.

The petitioners seek bail in Khagaria Mahila P.S. Case No. 8 of 2021, registered for the offence punishable under Section 376(D) of the Indian Penal Code.

As per the FIR, on 25.03.2021 at about 12.00 'O' clock both petitioners entered into house of informant closed her mouth and committed rape. They also snatched gold earring, cash and other articles from possession of informant. On protest made by son of informant the accused persons assaulted him by fist and slaps and threatened to kill.

It is submitted on behalf of petitioners that petitioners have committed no offence as alleged in the FIR and the same is



lodged with malafide intention due to previous enmity over cutting of grass and Maize by the informant from the field of petitioners. It is further submitted that though alleged occurrence is said to have taken place on 25.03.2021, but the FIR was lodged on 06.04.2021 i.e. delay of nine days and there is no plausible explanation for the same. It is next submitted that informant also submitted a written application before the SHO of Gangaur PS on 01.04.2021 stating therein that in the night of 27.03.2021 at about 12 'O' clock accused petitioners entered into her house and started to pull her sari and also threw her by catching her hair and assaulted her by fist and slaps. On the basis of report an enquiry was conducted by the ASI and report was submitted stating therein that house of both parties are situated at the same place and earlier dispute arose between the parties regarding cutting of grass and plucking of Maize and recommended to initiate proceeding under Section 107 Cr.P.C against both parties. Accordingly, non FIR No. 54/4 dated 03.04.2021 was instituted. It is next submitted that medical report does not support the prosecution case and no mark of violence is found anywhere in the body. Petitioners claim clean antecedent and they are in custody since 07.04.2021.

Counsel for the State opposed the bail application and



submitted that victim in her statement under Section 164 Cr.P.C has supported the prosecution case.

Considering the rival submission of the parties, material available on record and the fact that dispute between the parties arose over cutting of grass and Maize, investigation is complete, the petitioners above-named, are directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Khagaria in connection with Khagaria Mahila P.S. Case No. 8 of 2021.

(Prabhat Kumar Singh, J)

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