

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47225 of 2022

Arising Out of PS. Case No.-2 Year-2021 Thana- COMPLAINT CASE District- Kishanganj

1. NITISH KUMAR SINGH S/o Sadanand Singh Resident of Village- Balwa Jagir (Jhala), P.S.- Terhagachh, District- Kishanganj.
2. Jiten Kumar Singh S/o Janardhan Singh Resident of Village- Balwa Jagir (Jhala), P.S.- Terhagachh, District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Khusboo Kumari D/o Vinod Kumar Singh Resident of village- Balwa Jagir (Jhala), P.S.- Terhagachh, District- Kishanganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Radha Mohan Singh, Advocate
For the Opposite Party/s : Mr. Pranav Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 23-11-2022 Heard Mr. Radha Mohan Singh, learned counsel appearing on behalf of the petitioners, Mr. Rajkumar, learned counsel appearing on behalf of the informant and learned Additional Public Prosecutor for the State.

Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

The petitioners are apprehending their arrest in a case registered for the offences punishable under Sections 376, 224, 225 and 34 of Indian Penal Code section 4 of Protection of Children from Sexual Offences (POCSO) Act.

According to prosecution case, the allegation against



the petitioner in nut shell is that the complainant who is minor aged about 16 years was subjected to molestation by petitioner regularly and on 17.03.2021 these petitioners locked the complainant (victim) into room and raped her repeatedly and also threatened to kill if she revealed this fact to anyone.

Learned counsel for the petitioners submits that the petitioners have clean antecedent and they have falsely been implicated in the present case. He further submits that after filing of the present case the complainant's mother has filed a case vide Teraghachh P.S. Case No. 29 of 2021 for the offences punishable under Section 363, 366A and 34 of the Indian Penal Code for kidnapping of present complainant.

Learned counsel for the petitioners submit that after filing of the present complaint petition during course of inquiry, mother of the complainant and complainant were examined on 26.03.2021.

When the learned Court below after perusing the complaint petition, a statement of complainant on oath and statement of inquiry witnesses cognizance on 10.05.2022 under Section 376 of the Indian Penal Code and Section 4 of the POCSO Act against Nitish Kumar Singh and Jiten Kumar Singh who are the petitioner nos. 1 and 2 in the present application and



also took cognizance under Sections 224, 225 and 34 of Indian Penal Code and Section 4 of the POCSO Act against the co-accused namely, Upen Kumar Singh, Siken Kumar Singh, Sadanand Singh and Jagarnath Singh.

Learned counsel for the petitioners submits that the present case is false and fabricated and in fact the complainant was in love with the petitioner no. 1 namely, Nitish Kumar Singh. He further submits that the mother of the complainant namely, Gunja Devi has lodged a criminal case vide Teraghachh P.S. Case No. 29 of 2021 on 19.04.2021 one month after the institution of the present case under Sections 363, 366A and 34 of the Indian Penal Code against the petitioners and their family members. Learned counsel for the petitioners further submits that the victim/complainant was recovered and her statement was recorded under Section 164 of Cr.P.C in which she has categorically stated that she has performed the court marriage with Nitish Kumar Singh (petitioner no.1) and she went with Nitish Kumar Singh with her own sweet-will.

Learned counsel for the petitioner submits that after perusing the statement under Section 164 of Cr.P.C. of the victim/complainant it appears that no case is made out under Section 376 of the Indian Penal Code and Section 4 of the



POCSO Act against these petitioners.

Learned counsel for the informant on the other hand has opposed the prayer for anticipatory bail of the petitioners and submits that there is direct allegation of sexual abuse against the petitioners particularly submits that the petitioners have granted privilege of anticipatory bail by the learned Court below itself in Teraghachh P.S. Case No. 29 of 2021. Considering the aforesaid facts having regard to the rival submissions of the parties.

The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioners on the ground that petitioners carry one criminal antecedent other than the present one.

Considering the aforesaid facts and circumstances, let the petitioners, above named, in the event of their arrest or surrender within a period of four weeks, be released on anticipatory 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 Court below where the case is pending in connection with Special P.S. Case No. 04 2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:-



1. Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

2. If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any state it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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