

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57080 of 2021

Arising Out of PS. Case No.-72 Year-2020 Thana- ASHOK PAPER MILL District-
Darbhanga

MD. AHMAD @ AHMAD ALI Son of Usman Gani @ Usman Ghani
Resident of Village - Sirnia (Sirniya), P.S. Ashok Paper Mill (APM), District -
Darbhanga.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 56257 of 2021

Arising Out of PS. Case No.-72 Year-2020 Thana- ASHOK PAPER MILL District-
Darbhanga

MD. FAHIM @ ARZOO S/o Afroz Ahmed Resident of Village- Simiya, P.S.-
Ashok Paper Mill, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 58223 of 2021

Arising Out of PS. Case No.-72 Year-2020 Thana- ASHOK PAPER MILL District-
Darbhanga

MAZHARUL ISLAM @ GUDDU Son of Sohail Ahmad @ Suhail Ahmad
Resident of Village - Sirnia (Sirniya), P.S. - Ashok Paper Mill (APM), District
- Darbhanga.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 57080 of 2021)

For the Petitioner/s : Mr. Manish Kumar No 13, Advocate.

For the Opposite Party/s : Mr. Umesh Lal Verma, APP.

(In CRIMINAL MISCELLANEOUS No. 56257 of 2021)

For the Petitioner/s : Mr. Fahad Khurshid, Advocate.

For the Opposite Party/s : Mr. Satya Nand Shukla, APP.



(In CRIMINAL MISCELLANEOUS No. 58223 of 2021)

For the Petitioner/s : Mr. Manish Kumar No 13, Advocate.

For the Opposite Party/s : Mr. Yogendra Kumar Singh, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 20-09-2022 Learned counsel for the petitioners are permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Manish Kumar No 13 and Mr. Fahad Khurshid, learned counsels for the petitioners as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioners, above named, who have been made accused and put behind the bar in connection with A.P.M. P. S. Case No. 72 of 2020 registered for the offences punishable under Sections 341, 323, 354, 354 (b)(c)(d), 307, 506 read with 34 of the Indian Penal Code and Sections 8 and 12 of the of the Protection of Children from Sexual Offences Act.

As per the prosecution case, it is alleged that the informant herself disclosed in her statement recorded on 20.01.2020 that three years ago, her mother separated and solemnized second marriage with one Md. Izhar Hashmi and thereafter, she started residing with him at Darbhanga. It is also alleged that the informant and her younger sister were living in her maternal house. The co-accused Rakesh Kumar used to



impart tuition but Mazharul Islam @ Guddu, Md. Fahim @ Arzoo and Md. Ahmad (the petitioners) used to threaten her not to talk with Rakesh Kumar, the tutor. It is further alleged that all the four accused persons including the petitioners were always hurling lewd comments and stalking her. She also disclosed that on 18.04.2020 when she went to the house of the neighbour, Md. Mazharul Islam @ Guddu threatened her with dire consequences. It is next submitted that all the petitioners made her life miserable and on being depressed, she confined herself in a kitchen and set her ablaze.

Learned counsel appearing on behalf of the petitioners submitted that from the tenor of the F.I.R., it is evident that the general and omnibus allegation of torturing has been made against all the persons including the co-accused Rakesh Kumar, however, the said Rakesh Kumar has already been granted bail by learned coordinate Bench of this Hon'ble Court in Cr. Misc. No. 7392 of 2021, vide order dated 30.07.2021. It is also submitted that though there is allegation that the petitioners were used to torture the victim for the last three years but at no point of time any complaint has been made to anyone. It is next submitted that during pendency of the present application now all the charge sheet witnesses, except



doctor have been examined but none of them supported the prosecution case and in support of the submissions, depositions of all the charge-sheet witnesses including the investigating officer has been brought on record by way of filing supplementary affidavit, which clearly suggest that all the charge-sheet witnesses turned hostile and they have not supported the prosecution case. It is further submitted that since none of them have supported the prosecution case and as such, keeping the petitioners behind the bar would serve no further purposes. It is last submitted that all the petitioners having fair antecedent, are in custody since 21.04.2020.

On the other hand, learned APP for the State opposed the bail applications and submits that specific allegations have been levelled against all the petitioners and moreover, earlier the prayer for bail of the petitioners have been rejected by this court in Cr. Misc. No. 37700 of 2020, vide order dated 16.03.2021, after considering the every aspect of the matter.

Regard being had to the submissions made on behalf of the parties and taking into account the depositions of the charge-sheet witnesses who have not supported the prosecution case and turned hostile, apart from the period of



incarceration and the fair antecedent of the petitioners, 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 Sessions Judge-1st -cum-Special Judge, POCSO Act, Darbhanga in connection with A.P.M. P. S. Case No. 72 of 2020, 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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