

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58036 of 2021

Arising Out of PS. Case No.-101 Year-2021 Thana- BEN P.S. District- Nalanda

1. Ram Pravesh Kumar S/O- Lakshman Prasad Resident Of Village- Chhoti Aat, P.S.- Ben, District- Nalanda.
2. Kaushal Manjhi Son of Rambali Manjhi Resident of Village- Chhoti Aat, P.S.- Ben, District- Nalanda.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Singh, Advocate.
For the Informant	:	Mr. Vijay Kumar, Advocate.
For the Opposite Party/s	:	Mr. M.K. Nirala, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 21-09-2022 Learned counsel for the petitioners is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Anil Kumar Singh, learned counsel for the petitioners, Mr. Vijay Kumar, learned counsel for the informant as well as Mr. M.K. Nirala, 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 Ben P. S. Case No. 101 of 2021 registered for the offences punishable under Sections 376 (DA) of the Indian Penal Code and Section 4 of the of the Protection



of Children from Sexual Offences Act.

The prosecution case is based upon a written report of the informant alleging therein that on 20.07.2021 at about 03:00 A.M., the daughter of the informant, aged about 15 years went to attend the nature call, in the meantime, Biru Manjhi and other co-accused persons including the petitioners hatching a conspiracy to each other caught her and forcibly taken to the house of son-in-law of Fulwanti Devi. It is also alleged that all the accused persons locked her inside a room and committed rape upon her.

Learned counsel appearing on behalf of the petitioners submitted that from the tenor of the F.I.R., it is evident that the victim had gone to attend the nature call at about 03:00 A.M., and it appears to be a little bit absurd that at about 03:00 A.M., all the persons were waiting outside the house of the victim for kidnapping and brining her to the house of son-in-law of Fulwanti Devi. It is also submitted that just after few hours, the informant and other family members came to the house of the son-in-law of Fulwanti Devi from where the girl was recovered and other co-accused persons on noticing the informant and other fled away. The statement of the victim was recorded under Section 164 of Cr.P.C. wherein she has



categorically stated that it is Biru Manjhi, who has committed rape upon her. So far the petitioner and others are concerned, it is alleged that they were keeping guard over the house. Learned counsel for the petitioner further drawn the attention of this court towards the medical report, which clearly suggests that there is no sign of any recent sexual assault over the body of the victim. It is further submitted that in fact, it is a case of love affair as the victim had affair with Biru Manjhi and when they were caught, this case has been instituted at the instance of the family members of the victim. It is last submitted that petitioner having fair antecedent and he is in custody since 21.07.2021 and moreover, the investigation of the crime is completed and the charge-sheet has been submitted.

On the other hand, learned counsel for the informant vehemently opposed the bail application and submitted that in fact, the petitioner and others have actively assisted in commission of rape and their complicity cannot be ruled out in as much as the SDPO in his supervision stated that all the co-accused have found involved in commission of rape. It is also submitted that the victim was examined after a considerable period and, therefore, there was no sign of any recent sexual assault or commission of rape over the body of the



victim. It is further submitted that the victim was recovered from the house of the son-in-law of Fulwanti Devi, where she was locked from outside and as such, it cannot be a case of elopement.

The learned APP for the State also opposes the bail application and submits that the victim is minor girl and she made specific allegation against both the petitioners.

Regard being had the submissions and considering the statement of the victim girl recorded under Section 164 of the Cr.P.C., wherein she has specifically alleged that Biru Manjhi has committed wrongful act with her and so far other accused including the petitioners are concerned, they were keeping guard over the house, apart from the petitioners having fair antecedent, they are in custody since 21.07.2021, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-7th-cum-Special Court, POCSO Act, Nalanda at Biharsharif in connection with Ben P. S. Case No. 101 of 2021, 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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