

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62282 of 2021

Arising Out of PS. Case No.-203 Year-2019 Thana- MOHANIYA District- Kaimur (Bhabua)

1. SAJID @ MD SAID RAJA S/o Manir Faruki Resident of Village-Barkatnagar, P.S.- Mohania, Distt- Kaimur, Bihar
2. Bablu @ Dilshad Azamal S/o Ajmul Faruki Resident of Village-Barkatnagar, P.S.- Mohania, Distt- Kaimur, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Chandra Mohan Jha, Advocate Mr. Ravi Shankar Sahay, Advocate Mr. Rakesh Kumar Mishra, Advocate
For the Opposite Party/s	:	Mr. Narendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 25-07-2022 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 376 and 511 of the Indian Penal Code in which cognizance has been taken under Section 323, 342, 354, 504 and 34 of the IPC.

Learned counsel for the petitioners submits that the petitioners are persons with clean antecedent and the allegation is of attempting rape upon victim, it is next submitted that during the course of investigation the statement of the victim was recorded at Para-23 of the case diary wherein she has clearly stated that she was in love with Bul Quarashi and they



were sitting in a field when these petitioners came and abused them on which she got frightened that the petitioners may disclose her relationship with Bul Quarashi to her parents as such the present false case came to be instituted. It is next submitted that police after investigation submitted charge-sheet under the aforesaid sections, it is next submitted that police also did not arrest the petitioner and were given the benefit of Section 41 of the Cr.P.C, that after the cognizance came to be taken, the petitioners are apprehending their arrest as Section 354(A) is non-bailable. Learned counsel further submits that though privilege of Section 41(1) of Cr.P.C. was granted to the accused persons but the anticipatory bail is maintainable and relies on a judgment of this Court reported in **2015 (3) PLJR 618 Gauri Shankar Roy vs the State of Bihar** wherein this Court after examining the provision of law and the earlier judgment had come to a considered conclusion that an anticipatory bail is maintainable, in the event, if the privilege of Section 41(1) of the Cr.P.C. is also availed by the accused.

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 Mohania P.S. Case No. 203 of 2019 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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