

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62772 of 2021

Arising Out of PS. Case No.-165 Year-2021 Thana- BENIPATTI District- Madhubani

1. Md. Aameen @ Md. Aamin Son Of Md. Mobin @ Md. Movin Resident Of Village- Meghwan, P.S.- Benipatti, District- Madhubani.
2. Md. Mobin @ Md. Movin Son Of Atiur Rahman Resident Of Village- Meghwan, P.S.- Benipatti, District- Madhubani.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashhar Mustafa, Advocate
For the Opposite Party/s	:	Mr. Md. Mushtaque Alam, APP
For the Informant	:	Mr. Ravi Prakash, Advocate

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

4 10-03-2022 The applicants are claiming out of turn hearing on account of kidney ailment of applicant No.2 and that ground is supported with the medical evidence. The learned Additional Public Prosecutor has not disputed this fact.

The applicants are accused in Crime No.165 of 2021 registered with Benipatti Police Station for the offences punishable under Sections 143/341/342/323/498A/376/504/506 of the Indian Penal Code. By this application they are seeking their release on bail during pendency of the trial.

The learned counsel for the applicants/accused argued that married life of applicant No.1 and the first informant saw rough weather soon after the marriage and the



applicant is in fact staying at Delhi for earning his livelihood. He was confined by the parents of the first informant at Orrisa and anyhow he managed to escape and then he informed his abduction and confinement to the concerned police stations and has also issued legal notice for settlement of matrimonial dispute. It is further argued that the present crime is a counterblast to the attempts made by applicant No.1 to resolve his matrimonial dispute.

The learned Additional Public Prosecutor opposed the application by contending that statement of the victim apart from her FIR is clear. The learned counsel for the first informant has also reiterated the same fact.

The investigation of the subject crime is over. The charge sheet has been filed. The applicants are undergoing pretrial detention during the course of investigation as well as subsequent thereto.

According to the prosecution case, as reflected from the FIR lodged by wife of applicant No.1 Md. Aamin, present applicants as well as their family members had kept the first informant in confinement for four to five days from 23.07.2021 at there residential house at Meghbani, assaulted her continuously during that period, had not provided food to



her and when her parents came to know about this fact, she was rescued by her parents. That is how she lodged an FIR on 30.07.2021 wherein she had alleged that in past her father-in-law, i.e., applicant No.2 and her brother-in-law used to commit rape on her.

On this backdrop, if medical report dated 02.08.2021 is seen then it is reflected that the prosecutrix was medically examined immediately on the next day of lodging the FIR. No injury of any sort was found on her body though she is alleging in FIR that she was beaten continuously for a period of about five days by the accused persons.

Events brought on record which are of anti litem motam in nature are relevant. On 01.02.2021 the applicant No.1 has lodged report with the police station officer Sadar Bazar, Delhi, copies whereof are given to police station Benipatti, P.S. Dhajwa as well as to the Director General of Police, Orrisa. Photocopy of slip of registered post AD are also annexed to that report. In that report it is averred by the applicant No.1 that family members of his wife had abducted him after marriage of brother of first informant. He was taken to Orrisa where he was kept in confinement up to end of January, 2021. He was beaten there and he was insisted to stay



at Orrisa itself. The document at Annexure-3 is a letter issued by the advocate of the applicant on 01.02.2021 which is prior to lodgment of the FIR. In this letter also, offer for mediating the matrimonial dispute is made.

In the light of these events which took place prior to the lodgment of the FIR, on completion of investigation, further pretrial detention of the applicants is not required and, therefore, the order :-

i. The application is allowed.

ii. The applicants/accused in Crime No. 165 of 2021 registered with Benipatti Police Station be released on bail on executing P.R. bond of Rs.10,000/- (Rupees Ten Thousand) each on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicants/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicants/accused should cooperate the trial court in expeditious disposal of the trial against him.

(III) The applicants/accused should not contact the members of the prosecuting party as well as witnesses in this



case in any manner till conclusion of the trial.

(IV) The applicants should not repeat commission of similar offence in future and if they are found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicants in the instant case.

The applicants to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the applicant/accused.

(A. M. Badar, J)

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