

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69403 of 2021

Arising Out of PS. Case No.-351 Year-2020 Thana- KHAGARIA District- Khagaria

1. Mukesh Kumar @ Mukesh Thakur, S/O Kapildeo Thakur R/O Village/Muhalla- Baluahi, Ward No. 26, P.S.- Khagaria, District- Khagaria
2. Rupesh Kumar @ Rupesh Thakur, S/O Kapildeo Thakur R/O Village/Muhalla- Baluahi, Ward No. 26, P.S.- Khagaria, District- Khagaria
3. Sandeep Kumar, S/O Kailash Thakur R/O Village/Muhalla- Baluahi, Ward No. 26, P.S.- Khagaria, District- Khagaria

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jai Kishor Poddar

For the Opposite Party/s : Mr. Shyam Kumar Singh

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 28-06-2022 Heard learned counsel for the petitioners and learned
APP for the State.

The petitioners seek bail in anticipation of their arrest in a case registered for the offences punishable under Sections 341, 323, 504, 506, 354(B), 307, 34 of the Indian Penal Code, Section 8 and 18 of the POCSO Act and Section 27 of the Arms Act.

The learned counsel for the petitioners submits that police has investigated and submitted charge-sheet in pursuance whereof, cognizance has been taken under Sections 341, 323, 504, 506, 354(B) and 34 of the I.P.C. read with Sections 8 and



18 of the POCSO Act

The learned counsel for the petitioners submits that the petitioners are persons with clean antecedent and the informant alleges that on 16.03.2020 at about 8.30 A.M., her sister's daughter aged about 16 years was returning after purchasing vegetable when in front of the Collectorate gate, she started weeping and on asking, she disclosed that near Bhagwati temple, some persons used filthy words and tried to hold her hands. It is next alleged that accordingly, the informant along with her husband and family members and the victim went at the place of occurrence and the victim identified the accused persons, who were sitting outside their house and on asking why they misbehaved, the accused came out from the home and started abusing and blaming the family members of the informant. It is next alleged that Prashant @ Kisho hit on the head of the husband of the informant with bricks and accused Mukesh fired and also assaulted her son with butt of the gun due to which he received head injury. It is next alleged that Kanhaiya and Mukesh assaulted the brother-in-law of the informant with rod and some unknown criminals snatched her gold chain.

The learned counsel for the petitioners submits that



petitioners have been falsely implicated in the present case and all the Sections are bailable except Section 354(B) of the I.P.C. and Sections 8 and 18 of the POCSO Act. The learned counsel submits that from bare perusal of the allegation as alleged in the F.I.R., it would manifest that no offence under Section 354(B) of the I.C. is made out, nor the allegation of POCSO Act gets attracted. It is next submitted that petitioners were given the benefit of Section 41(1) of the Cr.P.C. and they have not misused the privilege. It is next submitted that since one of the co-accused Prashant's bail was rejected, as such, the petitioners apprehended their arrest in the present case.

Learned A.P.P. opposes the bail application and submits that since petitioners were on police bail, as such, the present anticipatory bail application is not maintainable.

The learned counsel for the petitioners rebuts the submissions made by the learned A.P.P. and relies on a judgment of this Court reported in **2015(3) P.L.J.R. 618** (Gauri Shankar Roy vs. the State of Bihar) wherein this Court after examining the provisions 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 granted to the accused persons.



The learned counsel further submits that even the victim in her statement recorded under Section 164 of the Cr.P.C. has not supported the prosecution case. Further the case has been compromised.

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, are directed to be released on bail on their furnishing bail-bonds in the sum 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 in connection with Khagaria P. S. Case No.351 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

The application stands allowed.

(Satyavrat Verma, J)

vikash/-

U		T	
---	--	---	--

