

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.864 of 2022

Arising Out of PS. Case No.-317 Year-2021 Thana- GAIGHAT District- Muzaffarpur

1. KANCHAN SAHANI S/o Ramkripal Sahani R/o village- Loma, P.S.- Gaighat, District- Muzaffarpur
2. SHAIL DEVI W/o Ramkripal Sahani R/o village- Loma, P.S.- Gaighat, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Hari Kishore Thakur, Advocate

For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 29-08-2022 Heard learned counsel appearing on behalf of the petitioners and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioners seek bail in connection with Gaighat P.S. Case No. 317 of 2021 registered for the offence under Sections 341, 342, 323, 363, 376, 504, 506 and 34 of the Indian Penal Code and Sections 4, 6 and 8 of the POCSO Act.

Both accused/petitioners are named in the F.I.R., where petitioner no.1 is in custody since 14.09.2021 and petitioner no.2 is in custody since 11.09.2021.

The allegation against the petitioners is to kidnapping



the informant/victim, where, it has been alleged that petitioner no.1, who is the son of petitioner no.2 raped her and causing her pregnant by putting victim under detention for about 10 months.

Learned counsel appearing on behalf of the petitioner submitted that petitioners are falsely been implicated in the present case, as this is a case of love affairs. It is also submitted that matter took ugly turn, as petitioner and informant belongs to different religion. It is also submitted that petitioner solemnized marriage with informant and from the said wedlock one male child was also born. It is also submitted that matter has been compromised at social/family level. It is also submitted that allegation against petitioner no.2 is very much general and omnibus and implication of petitioner no.2 is only for the reason that she is the mother of the petitioner no.1. While concluding the argument, it has been submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, submitted that there is specific allegation of kidnapping and rape against petitioner no.1, as supported through statement of victim recorded under Section 164 of the Cr.P.C. It is also



submitted that offence alleged is not compoundable, whereas, fairly conceded that the petitioner no.2 is the mother of the petitioner no.1.

Considering the facts and circumstances as mentioned above, and also nature of allegation against petitioner no.2, who is none, but mother of the petitioner no.1 coupled with the fact that charge-sheet has already been submitted in this case, let the petitioner no.2, above named, is directed to be released on bail in connection with Gaighat P.S. Case No. 317 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 6th Additional Sessions Judge-cum-Special Judge, POCSO Act, Muzaffarpur, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

So far as petitioner no.1 is concerned, in view of the submissions, as made above, as there is specific allegation against petitioner no.1, as regard to kidnapping and rape upon the informant, who was minor on the date of occurrence, this Court is not inclined to grant bail to the petitioner no.1, at present.

Accordingly, the prayer of bail of the petitioner no.1 is rejected herewith.



Trial Court/Special Court is directed to proceed with the matter, by taking it on board, on daily basis, so as trial may conclude within specified time as prescribed under Section 35 (2) of the POCSO Act, 2012.

Superintendent of Police, Muzaffarpur, is directed to produced the charge-sheeted witnesses, as and when directed by the Trial Court/Special Court, for expeditious disposal of trial, within specified time, as provided under law, mentioned above.

(Chandra Shekhar Jha, J)

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