

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4911 of 2023

Arising Out of PS. Case No.-322 Year-2020 Thana- NARPATGANJ District- Araria

1. Raj Kumar Bhagat @ Don @ Raj Kumar, Son of Ramchandra Bhagat
2. Ankit Kumar Bhagat @ Ankit Kumar Son of Raj Kuamr Bhagat
Both are Resident of village - Madhura West, Ward No.- 14, P.S.-
Narpatganj, Dist.- Araria

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Singh, Advocate

For the Opposite Party/s : Mr. Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 22-05-2023 Heard learned counsel for the petitioners and
learned Additional Public Prosecutor for the State.

The accused/petitioners are named in the FIR and apprehending their arrest in connection with Narpatganj P.S. Case No.322 of 2020 registered for the offences punishable under Sections 341, 323, 354-B, 307 read with 34 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act.

Allegation against petitioners is to assault informant along with other co-accused persons/family members causing bodily injuries and also to make a collective attempt to cause her death by drowning. The allegation of outraging modesty of informant and also of sexual assault is available against petitioners, where informant appears to be a minor on



the date of occurrence claiming her age 17 years.

It is submitted by the learned counsel that initially a case was lodged by father of the informant against petitioners and his son regarding kidnapping for the purpose of marriage, where after recovery of informant, who was the victim of the said case, her statement was recorded where she negated the occurrence of kidnapping and sexual assault by giving a clean chit to petitioners and his son, who are alleged to be the main co-accused thereof. It is submitted that victim after recovery in said case i.e. Narpatganj P.S. Case No.59 of 2020 joined her parent's home and thereafter, under the influence of her parents, the present case was lodged, where police after investigation submitted final form against co-accused persons including these petitioners but, the learned Jurisdictional Magistrate without having any cogent reason issued summons against petitioners.

It is further submitted by learned counsel that the maximum allegation as available as per FIR against the petitioners is to torn the cloth of the informant during course of occurrence but, nothing appears thereof or in the course of investigation, which may suggest that same was torn with sexual intent, which is a necessary ingredient to attract allegation under Section 8 of the POCSO Act.



Learned APP for the State duly assisted by Mr. Gopal Kumar Jha, learned counsel appearing on behalf of the informant, while opposing the prayer for bail fairly conceded that allegation against these petitioners is general and omnibus and injury is alleged to be caused during course of occurrence is simple.

In view of the above-mentioned facts and circumstances, as allegation of assault is appearing very much general and omnibus where sexual intent is *prima facie* appearing not available *qua* these petitioners, accordingly, in the event of their arrest or surrender in the court below within a period of four weeks of this order, both above-named petitioners are directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge-VI-cum-Special Judge (POCSO), Araria in connection with Narpatganj P.S. Case No.322 of 2020, subject to the conditions as laid down under Section 438(2) of the CrPC.

(Chandra Shekhar Jha, J.)

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