

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5375 of 2023

Arising Out of PS. Case No.-75 Year-2022 Thana- MAHILA P.S District- West Champaran

1. JITENDRA SAH S/o Late Jhapas Sah R/o Village- Tamkuha, P.S.- Dhanaha, Distt- West Champaran.
2. Harkesh Ram S/o Shambhu Ram R/o Village- Tamkuha, P.S.- Dhanaha, Distt- West Champaran.
3. Utkarsh Yadav @ Golu @ Golu Yadav S/o Santosh Yadav R/o Village- Tamkuha, P.S.- Dhanaha, Distt- West Champaran.
4. Satyaprakash Yadav S/o Chhabilal Yadav R/o Village- Tamkuha, P.S.- Dhanaha, Distt- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sachida Nand Rai, Advocate

For the Opposite Party/s : Dr. qMrityunjaya Kr.Gautam, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 18-08-2023 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. Petitioners seek bail who are in custody since 01.10.2022 in connection with Bagaha Mahila P.S. Case No. 75 of 2022, F.I.R. dated 29.09.2022 for the offences punishable under Sections 376(D) of the Indian Penal Code and Section 67 of the I.T. Act

3. According to prosecution case, when the informant had gone for repairing of her mobile at the shop, on her returning from the shop, four to five persons followed her and



thereafter near a sugarcane field, they forcibly taken her away where three persons committed rape upon her while one person was making video of that. Thereafter, they fled away to whom she was not knowing prior to the occurrence, however she claimed to identify them on seeing again.

4. Learned counsel for the petitioners submits that petitioners have clean antecedent and they have falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioners have not committed any offence as alleged in the F.I.R. He further submits that victim girl has not stated anything against these petitioners under Section 161 as well as under Section 164 of the Cr.P.C. He further submits that even the medical report does not support the allegation as alleged in the F.I.R. He further submits that police after investigation submitted a charge-sheet against the petitioners under Section 376(DA) of the Indian Penal Code and Section 6, 8 of the POCSO Act. The petitioners are in custody since 01.10.2022.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioners and submits that it has been mentioned in Paragraph – 72 of the case diary that the victim has identified all the accused persons in the



police premises and Paragraph – 77 and 80 of the case diary also suggest that the petitioners are involved in the present occurrence and with respect to the medical report of the victim is concerned, the date of occurrence as alleged in the F.I.R is 27.09.2022 and the medical report conducted on 30.09.2022.

6. Considering the aforesaid facts that the identification process is done against these petitioners and the petitioners have been identified by the victim, I am not inclined to enlarge the petitioners on bail in connection with Bagaha Mahila P.S. Case No. 75 of 2022 pending in the court of learned Additional District & Sessions Judge – VIIth- cum Special Judge – POCSO, Bettiah, District – West Champaran.

7. Prayer is refused.

(Rajesh Kumar Verma, J)

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