

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17405 of 2023

Arising Out of PS. Case No.-220 Year-2021 Thana- AURAI District- Muzaffarpur

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1. Chamkila Khatoon, W/o Md. Rizwan, Resident of village- Kokilwara, P.S.- Aurai, District- Muzaffarpur (East).
 2. Raushan Ara, W/o Faiyaz, Resident of village- Kokilwara, P.S.- Aurai, District- Muzaffarpur (East).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok, Advocate

For the Opposite Party/s : Mr. Ram Anurag Singh, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

2 16-05-2023 The applicants/accused in Crime No.220 of 2021 registered with Aurai Police Station for the offence punishable under Sections 376, 313, 323, 504, 506, 120(B) read with Section 34 of the Indian Penal Code, by this application are seeking their release on bail during pendency of the trial, after filing of the charge sheet.

The learned counsel for the applicants submits that there is no iota of evidence to connect the applicants with the crime in question. They are falsely implicated in the crime in question only to settle the family dispute relating to share in property.

The learned Additional Public Prosecutor opposed the application by contending that the crime in question is that



of commission of rape on the victim.

I have considered the submissions so advanced. I have also perused the materials placed on record.

The subject crime was registered on the basis of order passed under Section 156(3) of the Cr.P.C. on the private criminal complaint filed by the alleged victim of the crime in question. It is case of the prosecution that the alleged victim of the crime in question is daughter of brother of applicant No.1 Chamkila Khatoon. The victim was at the house of applicant Chamkila Khatoon on 20.10.2019 and in the night hours of that day, accused Md. Irfan who happens to be son of applicant No.1 Chamkila Khatoon had committed rape on her. Perusal of the complaint itself makes it clear that this alleged act was not within knowledge of Chamkila Khatoon. The prosecutrix further averred that then accused Md. Irfan and applicant No.1 Chamkila Khatoon assured that she would be married to accused Md. Irfan. She became pregnant subsequently and her pregnancy was terminated. Thereafter, the accused persons have refused to marry Md. Irfan with her.

The complaint is not containing any allegation against applicant No.2 Raushan Ara. So far as applicant No.1 Chamkila Khatoon is concerned, averment in the complaint makes it clear



that she was not even aware about the alleged incident which was subsequently informed to him by the prosecutrix. In the wake of this evidence against both the applicants who are woman, their further pre-trial detention after filing of the charge sheet is not required and as such the following orders:-

(i). The application is allowed.

(ii). The applicant in Crime No.220 of 2021 registered with Aurai Police Station for the offence punishable under Sections 376, 313, 323, 504, 506, 120(B) read with Section 34 of the Indian Penal Code, be released on bail on executing P.R. Bond of Rs.10,000/- (Rupees Ten Thousand) each and on furnishing two sureties of the like amount each to the satisfaction of the Trial Court with the following conditions :-

(I) The applicants/accused should not contact the prosecutrix in any manner.

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

(III) The applicants/accused should not tamper prosecution evidence in any manner.

(A. M. Badar, J)

Saurabhkrsinha/
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