

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18246 of 2023

Arising Out of PS. Case No.-255 Year-2022 Thana- GORADIH District- Bhagalpur

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1. Kundan Kumar @ Kundan Kumar Yadav, Son of Heero Yadav, Resident of Mohalla - Mir Saheb Tola, Factory Road, Behind I.T.I., P.S. - Barari, Distt. - Bhagalpur
 2. Vijay Kumar Yadav, Son of Heero Yadav, Resident of Mohalla - Mir Saheb Tola, Factory Road, Behind I.T.I., P.S. - Barari, Distt. - Bhagalpur

... .. Petitioners

Versus

1. The State of Bihar
2. Manoj Kumar Singh, Son of Chhote Lal Singh, Resident of Village - Birnaudh, P.S. - Goradih, Distt. - Bhagalpur

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Chandra Shekhar Anand, Advocate
For the Opposite Party/s	:	Mr. Md. Fahimuddin, APP
For the Informant	:	Mr. Arun Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 05-06-2023 Heard learned counsel for the petitioners, learned counsel for the informant and learned APP for the State.

The petitioners in the present case are seeking pre-arrest bail in connection with Sabour (Goradih) P.S. Case No. 255 of 2022 registered for the offences punishable under Sections 366A, 120B of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act, 2012 (in short 'POCSO'). They have no criminal antecedent.

As per the prosecution story, the minor daughter of the informant had been earlier kidnapped by Rahul Kumar, Sachin Kumar, Munilal Yadav and Sarita Devi for which a first



information report being Sabour (Goradih) P.S. Case No. 43 of 2022 under Section 366A, 120B of the Indian Penal Code and Section 8 of the POCSO Act was lodged. The victim girl was recovered and was handed over to the informant on 10.02.2022 but thereafter she was again kidnapped on 21.03.2022 for which the present FIR as contained in Annexure '1' has been lodged on 04.07.2022.

Learned counsel for the petitioners submits that in course of investigation, it has come that the victim girl was studying with Rahul Kumar in a coaching centre and she had been taken away to Rajasthan by said Rahul Kumar. So far as these two petitioners are concerned, they are the maternal uncle of Rahul Kumar and have been falsely implicated in this case in view of the subsequent statement of the victim girl under Section 164 Cr.P.C. in which she has stated that these two petitioners had taken her to Rajasthan.

Learned counsel further submits that the FIR in this case has been lodged after about 3½ months which is an abnormal delay in lodging of the FIR and it shows that the informant was fully aware of the relationship between the victim girl and the boy Rahul Kumar.

It is submitted that Rahul Kumar has been acquitted in



both the cases i.e. POCSO Case No. 24 of 2022 arising out of Sabour (Goradih) P.S. Case No. 43 of 2022 and POCSO Case No. 119 of 2022 arising out of Sabour (Goradih) P.S. Case No. 255 of 2022. The Juvenile Justice Board, Bhagalpur found that Rahul Kumar was also minor.

Learned counsel for the informant has opposed the prayer for anticipatory bail of these petitioners, however, does not controvert that the victim girl has in her statement under Section 164 Cr.P.C. stated about her being in contact with the boy Rahul Kumar and it was the said Rahul Kumar who had taken her to the station from where she had gone to Rajasthan. It is also not denied that Rahul Kumar has been acquitted in both the cases and there is a delay of more than 3 and half months in lodging of the FIR.

In the circumstances stated hereinabove, considering the uncontroverted facts that there is a delay of 3½ months, both the victim girl and Rahul Kumar were minors and Rahul Kumar has already been acquitted in both the cases by the Juvenile Justice Board, Bhagalpur and no specific overt act has been alleged against these petitioners, this Court directs that in case of their arrest or surrender within a period of four weeks from today, the petitioners above named be released on bail in connection with Sabour (Goradih) P.S. Case No. 255 of 2022 on



furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VII-cum-Special Judge, POCSO Act, Bhagalpur, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application stands allowed.

(Rajeev Ranjan Prasad, J)

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