

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22638 of 2022

Arising Out of PS. Case No.-371 Year-2021 Thana- MIRGANJ District- Gopalganj

1. AAQUIB ALAM S/o Lal Babu Miya R/o village- Otanipati Bhatvli Sheikhtolli, Post- Sisuwanya, P.S.- Mirganj, District- Gopalganj, Pin Code- 841436
2. Munna Alam S/o Noor Alam R/o village- Otanipati Bhatvli Sheikhtolli, Post- Sisuwanya, P.S.- Mirganj, District- Gopalganj, Pin Code- 841436
3. Arman Alam S/o Shahabuddin Miaya R/o village- Otanipati Bhatvli Sheikhtolli, Post- Sisuwanya, P.S.- Mirganj, District- Gopalganj, Pin Code- 841436

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Satish Kumar

For the Opposite Party/s : Mr.Binod Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 04-01-2023 Heard the learned counsel for the petitioners and the learned APP for the State.

The petitioners seek regular bail in connection with Mirganj P.S. Case No. 371 of 2021, registered for the offence punishable under Sections 376(D)(A), 120(B) of the Indian Penal Code and Section 4/ 6 of the POCSO Act.

The case of the prosecution, in brief, is that the accused persons including the petitioners herein had committed gang rape with the



daughter of the informant on 10.11.2022 at about 7:00 in the evening, whereafter they had made a video of the entire incident and had left the daughter of the informant at the place of occurrence in an unconscious and nude state. It is also alleged that after search, the daughter of the informant was found in an unconscious state, whereafter water was sprinkled on her face and subsequently, she regained consciousness and narrated the incident in question as also named the accused persons including the petitioners herein as the perpetrators of crime, who had forcibly lifted her and taken her near the temple situated towards south of the transformer, where the petitioner no. 3 had torn her clothes, whereafter all the accused persons including the petitioners had opened her jeans, made her nude and raped her.

The learned counsel for the petitioners has submitted that the petitioners are innocent, they have been falsely implicated in the present case, they are having a clean antecedent and they are



languishing in custody since 13.11.2021. The learned counsel for the petitioners has further submitted that there is no eye-witness to the alleged occurrence and as far as the statement of the victim girl made under Section 164 Cr.P.C. is concerned, though it has been alleged therein that all the accused persons totalling six in number including the petitioners herein had confined her at the place of occurrence, but then only the co-accused persons, namely, Sameer Alam and Bablu Alam had committed rape with the victim girl. Hence, it is submitted that the petitioners do not have any complicity in the alleged occurrence.

Per contra, the learned APP for the State has submitted, by referring to paragraphs no. 3, 4, 5 and 38 of the case diary that the eye-witnesses have been examined by the police and all of them have supported the alleged occurrence and have stated that they had seen the petitioners fleeing away through the paddy field in question near to which the victim girl had



been raped. The learned APP for the State has also referred to the statement made by the victim girl under Section 164 Cr.P.C. before the learned Magistrate to submit that the complicity of the petitioners in the alleged occurrence is writ large. It is also submitted, by referring to the medical report that the age of the victim girl has been found in between 17-18 years and hymen has not been found to be intact. Hence, it is submitted that there are enough materials available in the case diary so as to prima facie make out a case against the petitioners for the offences alleged.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioners and taking into account the materials available on record as also those available in the case diary, this Court finds that the complicity of the petitioners in the alleged crime is writ large, which is also apparent from the statement made by the victim girl under Section 164 Cr.P.C., before the learned Magistrate



and also stands substantiated by the statement of the independent witnesses, recorded by the police during the course of investigation, hence, I am not inclined to grant bail to the petitioners, thus, the present petition stands dismissed.

(Mohit Kumar Shah, J)

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