

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.29595 of 2023**

Arising Out of PS. Case No.-40 Year-2022 Thana- MAHILA P.S. District- Lakhisarai

1. Rajkishore Mahto Son Of Jay Narayan Mahto Village- Billo, P.S.- Ramgarh Chowk, District-Lakhisarai
2. Nandkishore Mahto Son Of Rajkishore Mahto Village- Billo, P.S.- Ramgarh Chowk, District- Lakhisarai

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

**Appearance :**

|                          |   |                              |
|--------------------------|---|------------------------------|
| For the Petitioner/s     | : | Mr. Shailesh Anand, Advocate |
| For the Informant        | : | Mr. Bharat Lal, Advocate     |
| For the Opposite Party/s | : | Mr. Jharkhandi Upadhyay, APP |

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

3      25-07-2023                      Heard learned counsel for the petitioners, learned counsel appearing on behalf of the Informant and learned APP for the State.

Petitioners seek bail, who are in custody since 14.12.2022 and 07.01.2023 respectively, in connection with Lakhisarai Mahila P.S. Case No. 40 of 2022, F.I.R. dated 31.07.2022 registered for the offences punishable under Sections 341, 323, 379, 376, 354B, 448, 504 and 34 of the Indian Penal Code and Sections 4 and 8 of the Prevention of Children from Sexual Offences Act.

Prosecution case, in brief, is that in the evening on 30.07.2022 the petitioners along with co-accused forcibly



entered into the house of the informant and started abusing her and her minor daughter. Further the petitioner namely Nandkishore Mahto and co-accused physically assaulted the minor daughter of the informant and with an intention to rape her tore away her clothes and sexually assaulted her and when the minor victim raised hue and cry the informant rushed to save her but the petitioners outraged her modesty and tore away her clothes as well. Further allegation is that the petitioner namely Rajkishore Mahto inserted his finger in her private part and snatched away her Mangalsutra.

Learned counsel for the petitioners submits that the petitioners have clean antecedents and they have been falsely 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. The allegation as alleged in the F.I.R. is not supported by the medical evidence and it has come during investigation that some independent witnesses have been examined and they have stated that only some altercation took place between the parties and the police has not found case true under Section 376 of the Indian Penal Code. He further submits that the police after investigation submitted chargesheet against the petitioners and



the petitioner namely Rajkishore Mahto is in custody since 14.12.2022 and the petitioner namely Nandkishore Mahto is in custody since 07.01.2023 respectively.

The learned counsel appearing on behalf of the Informant and learned Additional Public Prosecutor for the State, on the other hand, have vehemently opposed the prayer for bail of the petitioners and submits that the statements of the victims were recorded under Section 164 of the Cr. P.C. in which both the victims have supported the case of the prosecution and the allegation against these petitioners are serious in nature. Further submits that charge has been framed against these petitioners on 24.09.2022 itself and two witnesses have already been examined in this case.

Considering the facts and circumstances of the case, let the petitioners, above named, be released on bail, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-VI-cum-Special Judge, POCSO, Lakhisarai in connection with Lakhisarai Mahila P.S. Case No. 40 of 2022, subject to the following conditions :-

- (1) Petitioners shall co-operate in the trial and shall



be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bonds shall be cancelled by the Court below.

(2) If the petitioners tamper with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) 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 antecedents, 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.

**(Rajesh Kumar Verma, J)**

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