

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33072 of 2022

Arising Out of PS. Case No.-248 Year-2021 Thana- BIHRA District- Saharsa

1. BIMAL SAH Son of Harinandan Sah Resident of Village - Dorma Ward No.6, P.s.- Bihra, Distt.- Saharsa.
2. Binod Sah Son of Harinandan Sah Resident of Village - Dorma Ward No.6, P.s.- Bihra, Distt.- Saharsa.
3. Manish Sah Son of Bimal Sah Resident of Village - Dorma Ward No.6, P.s.- Bihra, Distt.- Saharsa.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Amarnath Jha, Adv.
For the State	:	Mr.Amit Kumar Rakesh, APP
For the Informant	:	Mr. Javed Aslam, Adv.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 17-01-2023 Learned counsel for the petitioners is permitted to make necessary correction in prayer portion of the petition.

Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

Heard learned counsel for the petitioners, learned counsel for the informant and learned A.P.P. for the State.

The petitioners seek bail in connection with Bihra P.S. Case No. 248 of 2021 corresponding to POCSO Case No. 22 of 2022 registered for the offences punishable under Sections 323, 363, 366(A), 34, 504, 506 of the Indian Penal Code and Sections 8, 10, 12 of the POCSO Act.



As per prosecution case, petitioner no. 3 Manish Sah and others on the point of pistol forcibly took away the informant's daughter by pressing her mouth and when informant protested, co-accused Mithlesh Sah pointed out pistol due to which she became afraid. It is further alleged that petitioner no. 1 Bimal Sah, Petitioner no. 2 Binod Sah and co-accused Lakhan Sah were talking collectively and laughing. It is further alleged that they abused the informant's husband and began to assault and threatened for dire consequences.

Learned counsel for the petitioners submits that petitioners are in custody since 16.02.2022. Petitioner no. 1 and 3 bear criminal antecedent of one case whereas petitioner no. 2 bears criminal antecedent of two cases. He further submits that petitioners are quite innocent and they have been falsely implicated as petitioner no. 1 is father and petitioner no. 2 is uncle of co-accused Sanish Kumar whereas petitioner no. 3 is brother of co-accused Sanish Kumar. Petitioners have nothing to do with the alleged occurrence. He further submits that during the course of investigation statement of victim under Section 164 of the Cr.P.C was recorded in which there was no whispering against the petitioners. He further submits that victim eloped with co-accused Sanish Kumar and unfortunately



petitioners are the family members of said co-accused Sanish Kumar. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

Learned counsel for the informant and learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioners.

Considering the facts and circumstances of the case, period of custody, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, no whispering is made against the petitioners in the statement of victim recorded under Section 164 of the Cr.P.C., argument advanced on behalf of both sides and also taking into consideration the material available on record, 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 Sessions Judge-1 cum Special Judge, POCSO Act, Saharsa in connection with Bihra P.S. Case No. 248 of 2021 corresponding to POCSO Case No. 22 of 2022, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn



the affidavit in bail application.

(ii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

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

(Alok Kumar Pandey, J)

shahzad/-

U		T	
---	--	---	--

