

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45445 of 2023

Arising Out of PS. Case No.-155 Year-2023 Thana- BANIAPUR District- Saran

1. Abhishek Kumar @ Abhishek Kumar Mahto S/O Late Bachcha Lal Mahto R/O Village- Satua, Ps. Baniyapur In The District Of Saran
2. Basant Bin @ Basant Kumar Rawat S/O Ramji Bin @ Ramji Rawat R/O Village- Satua, Ps. Baniyapur In The District Of Saran
3. Mithu Kumar @ Mithu Kumar Mahto S/O Sakil Mahto @ Sikil Mahto R/O Village- Satua, Ps. Baniyapur In The District Of Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Anuj Kumar Shrivastava, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 28-08-2023 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. Petitioners seek bail who are in custody since 09.05.2023 in connection with Baniyapur P.S. Case No. 155 of 2023, F.I.R. dated 08.05.2023 for the offences punishable under Sections 376(B)(A) of the Indian Penal Code along with Section 4/6 of the POCSO Act.

3. According to prosecution case, rape has been committed on the victim by some accused persons.

4. Learned counsel for the petitioners submit that petitioners have clean antecedent and they have falsely been implicated in the present case. He further submits that the



allegations as alleged in the F.I.R., are false and fabricated and the petitioners have not committed any offence. He further submits that the allegation as alleged in the F.I.R. is the petitioners have committed rape upon the victim and date of the occurrence is 08.05.2023. He further submits that the medical of the victim was conducted on the same date i.e., 08.05.2023 but no rape sign was found on the person of the victim.

5. Learned counsel for the petitioners submit that the statement of the victim was recorded under Section 164 of the Cr.P.C., in which she has not stated anything about the petitioners and the medical report of the victim does not support the allegation as alleged in the F.I.R. He further submits that the police after investigation submitted the charge sheet against the petitioners. The petitioners are in custody since 09.05.2023.

6. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioners and submit that the victim has fully supported the prosecution version.

7. Considering the aforesaid facts and circumstances, let the petitioners, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned



Additional Sessions Judge – VIth- cum- Special Judge, POCSO Act, Saran at Chapra, in connection with Baniyapur P.S. Case No. 155 of 2023, subject to the following conditions:-

i. 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 his absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

ii. 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.

iii. 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.

(Rajesh Kumar Verma, J)

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