

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48239 of 2023

Arising Out of PS. Case No.-79 Year-2018 Thana- ALOULI District- Khagaria

1. Abhimanyu Kumar S/O- Devendra Yadav Village- Bartar Ps- Alauli Dist- Khagaria
2. Bablu Yadav @ Paglu Yadav Son Of Khokhay Yadav Village- Bartar Ps- Alauli Dist- Khagaria
3. Pappu Kumar Son Of Rajendra Yadav Village- Bartar Ps- Alauli Dist- Madhepura
4. Bablu Yadav @ Bablu Kumar @ Bucho Yadav Son Of Chalitar Yadav Village- Bartar Ps- Alauli Dist- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shekhar Kumar Singh
For the Opposite Party/s : Ms. Asha Devi

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 06-10-2023 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners apprehend their arrest in Alauli P.S.
Case No. 79 of 2018 registered for the offences punishable under
Section 366 of the Indian Penal Code, pending in the Court of
learned CJM, Khagaria.

3. As per the allegation, Amol Kumar had kidnapped
the grand-daughter of the informant and the allegation against
other named accused persons, including the petitioners, is that
they had assisted the main accused Amol Kumar in kidnapping
the grand-daughter of the informant.

4. Learned counsel for the petitioner submits that the



petitioner is innocent and has falsely been implicated in this case. The allegation levelled against the petitioner is not specific rather general and omnibus in nature. He submits that after investigation the police has submitted final form against the petitioners but the learned Court below differed the final form and took cognizance against the petitioners. Similarly situated co-accused has been granted anticipatory bail by a co-ordinate bench of this Court vide order dated 03.08.2023 passed in Cr. Misc. No. 38710 of 2023. He further submits that the brother of the victim and other witnesses have not supported the prosecution case. He also submits that there is specific overt act against co-accused Amol Kumar and it is fact that there is relationship between the victim and co-accused Amol Kumar. He also submits that restatement of the victim was recorded by the police in para-324 of the case diary, in which she has not supported the prosecution case. The petitioners no. 1 and 3 have no criminal antecedent, petitioners no. 2 and 4 have one criminal antecedent as mentioned in para-3 of the bail application.

5. Learned APP for the State opposes the prayer for anticipatory bail and submits that the statement of the victim was recorded under Section 164 of the Cr.P.C., in which she had taken the name of the petitioners and other co-accused persons and the victim is minor. The Medical Board has also assessed the age of



victim between 14 to 16 years and the date of birth as per the school certificate of the victim is 23.02.2003 i.e. aged about 15 years. He further submits that co-accused has been granted anticipatory bail by a co-ordinate bench of this Court in which these facts were not brought before the Bench that the victim in her statement recorded u/s 164 of Cr.P.C. has taken name of Anil Kumar and also stated that petitioners along with other accused persons sexually abused her, if these facts were brought before the co-ordinate Bench the similarly situated co-accused might not have been granted anticipatory bail. He lastly submits that learned Court below has rightly taken cognizance against the petitioners after going through the case diary and the materials on record, therefore he must not be given privilege of anticipatory bail.

6. Considering the facts and circumstances of case and the fact that the victim is minor, I am not inclined to enlarge the petitioner on anticipatory bail. The prayer for anticipatory bail of the petitioner is hereby rejected.

(Anjani Kumar Sharan, J)

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