

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49116 of 2023

Arising Out of PS. Case No.-46 Year-2021 Thana- MAHILA P.S. District- Muzaffarpur

Amarjeet Kumar @ Tony @ Toni Son of Arun Sah @ Arun Kumar Resident
of village - Mahmadpur Patahi Naya Tola, P.s. - Sadar, Distt. - Muzaffarpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 50993 of 2023

Arising Out of PS. Case No.-46 Year-2021 Thana- MAHILA P.S. District- Muzaffarpur

Rahul Kumar S/O Surendra Sah R/O Village- Mohammadpur, Patahin, Ps.
Sadar, Dist. Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 49116 of 2023)

For the Petitioner/s : Mr. Om Prakash Kumar, Advocate

For the Opposite Party/s : Mr. Bharat Lal, APP

(In CRIMINAL MISCELLANEOUS No. 50993 of 2023)

For the Petitioner/s : Mr. Mazharul hasan, Advocate

For the Opposite Party/s : Mr. Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 12-09-2023 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. Petitioners seeks bail who are in custody since
28.03.2023 in connection with Mahila P.S. Case No. 46 of 2021,
F.I.R. dated 25.04.2021 for the offences punishable under
Sections 341, 342, 376(D)/34 of the Indian Penal Code and



Section 4/6 of the POCSO Act.

3. According to prosecution case, all the accused persons including these petitioners have committed rape upon the victim.

4. Learned counsel for the petitioners submits that petitioner namely, Amarjeet Kumar carries two criminal antecedents and petitioner, namely, Rahul Kumar has clean antecedent and they have falsely been 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 offences as alleged in the F.I.R. He further submits that the victim was recovered and her statement was recorded under Section 164 of the Cr.P.C. in which she has not stated the name of the petitioners and the medical of the victim was conducted on 25.04.2021 i.e. on the very next day of the alleged occurrence but no sign of rape was found on the person of the victim. He further submits that the police after investigation submitted the charge sheet against the petitioners. He further submits that similarly situated, co-accused, namely, Kundan Kumar has been granted bail by a co-ordinate Bench of their Court vide order dated 31.03.2022 passed in Cr. Misc. No. 49730 of 2021. The petitioners are in custody since 28.03.2023.



5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioners and submits that there is direct and specific allegation against these petitioners and the victim has stated in her 164 statement that these petitioners have committed rape upon her.

6. 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) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Muzaffarpur in connection with Mahila P.S. Case No. 46 of 2021, 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 their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

ii. If the petitioners tampers 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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