

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57120 of 2023

Arising Out of PS. Case No.-284 Year-2022 Thana- SIKARPUR District- West Champaran

1. Virendra Sahani S/O Late Manager Sahani R/O Village- Diwuliya, P.S- Sikarpur, Distt.- West Champaran.
2. Rishideo Sahani @ Rishidev Kumar S/O Virendra Sahani R/O Village- Diwuliya, P.S- Sikarpur, Distt.- West Champaran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sarvesh Kashyap, Adv.
For the Informant	:	Mr. Pankaj Kumar Jha, Adv.
For the State	:	Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 13-12-2023 Heard Mr. Sarvesh Kashyap, learned counsel appearing on behalf of the petitioners and Mr. Ashok Kumar Singh, learned Additional Public Prosecutor for the State. The informant is represented by Mr. Pankaj Kumar Jha, learned counsel.

2. The petitioners apprehend their arrest in connection with Shikarpur P.S. Case No. 284 of 2022, registered for the offences punishable under Sections 363, 366(A)/34 of the Indian Penal Code and Sections 8 and 12 of the POSCO Act.

3. The prosecution case is based on a complaint filed by the informant which was subsequently registered as FIR alleging therein that on 15.02.2022, in the morning when her



daughter went to attend the call of nature along with Sairun Nisha and Shahjadi Khatoon, she did not return to her house. On a query, she came to know that she was abducted by the petitioners and one another co-accused person.

4. It is submitted on behalf of the petitioners that the alleged occurrence of abduction took place on 15.02.2022 but the complaint was filed on 03.03.2022, after a delay of more than 16 days without any plausible explanation. That apart, during the course of investigation, it has come that prior to the alleged occurrence one of the accused person namely, Mehru Nisha Khatoon had instituted an FIR against the son of the informant and the present case is nothing but a counter blast of the said case. Further submission has been made that the independent witnesses have also suggested about the innocence of the petitioners. He next submits that the victim girl was recovered and examined by the board of doctors wherein no sign of any recent sexual intercourse has been found and the age of the victim girl has been shown to be more than 18 ± 1 years. It is lastly submitted that the petitioners are men of fair antecedent and absurdity of the case is manifest for the reason that both the father and son have been made accused in this case which makes the entire prosecution case doubtful.



5. On the other hand, learned counsel for the State as well as the informant have drew the attention of this Court to the statement of the victim girl recorded under Section 164 Cr.P.C. wherein she has categorically stated that both the accused persons, Sairun Nisha and Shahjadi Khatoon had administered some intoxicant and thereafter she was taken to Gorakhpur along with other accused persons and thrown in a brothel where she was subjected to sexual exploitation at the hands of the other persons. Victim girl further stated that she was subjected to assault by accused persons, however, she anyhow succeeded in fleeing away from that place but later on she was apprehended by all the accused persons and they left her in Mahila Police Station, Gorakhpur.

6. It is next submitted that the informant is a widow and prior to filing of the complaint she had informed to the concerned Police Station and the Superintendent of Police but no FIR could be lodged. Thus, she filed the present complaint. Learned counsel for the informant also submits across the Board that the petitioner no 1 bears criminal antecedent also which has not been disclosed.

7. Regard being had to the submissions made on behalf of the parties and considering the statement of the victim



recorded under Section 164 Cr.P.C., *prima facie*, this Court finds that this is not a case for grant of anticipatory bail to the petitioners. However, in case the petitioners surrender before the court below, their prayer for regular bail shall be considered by taking into account the afore-noted submissions and the delay in lodging of the complaint, expeditiously, without unnecessary delay.

8. The present application stands rejected with the aforesaid observations.

(Harish Kumar, J)

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