

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54909 of 2023

Arising Out of PS. Case No.-1012 Year-2022 Thana- ARA NAGAR District- Bhojpur

1. RAHUL KUMAR S/o- MUKESH KUMAR Mohalla- Waliganj Atta Mill
Ps- Ara Nagar Dist- Bhojpur
2. Himanshu Raj @ Himanshu Kumar son of Pappu Kumar @ Pappu Sah
Mohalla- Ahirpurwa Ps- Ara Nagar Dist- Bhojpur
3. Bhola Kumar @ Anand Kumar son of Kamlesh Prasad Mohalla- Ahirpurwa
Ps- Ara Nagar Dist- Bhojpur
4. Bishnu Shankar @ Golu son of Pappu Kumar @ Krishna Prasad Mohalla-
Ahirpurwa Ps- Ara Nagar Dist- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Maya Shankar Mishra, Adv.

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

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 30-08-2023 Heard Mr. Maya Shankar Mishra, learned counsel
for the petitioners and Mr. Yogendra Kumar, Additional Public
Prosecutor for the State.

2. Petitioners apprehend their arrest in connection
with Ara Town PS Case No. 1012/2022 registered for the
offence punishable under Sections 341/323/354B/34 of the IPC.

3. The allegation against the petitioners as per First
Information Report is that on 05.12.2022 when the informant
had gone to flour mill for the purpose of grinding rice, all the
accused persons surrounded her, passed lewd remarks and when



she objected, the accused persons started misbehaving with her. One of the accused persons, namely, Himanshu Kumar (petitioner no. 2) pulled her *Dupatta* in order to disrobe her, touched her indecently and also assaulted her.

4. Learned counsel for the petitioners submits that the petitioners have not committed any offence in the manner alleged and they have been implicated in this case due to previous enmity and Mohalla politics. He further submits that petitioners have compromised the case with the informant and a joint compromise petition has been filed before the concerned court. The statement made in the FIR is improbable and unbelievable that in a broad day light at 12:00 noon, the petitioners could commit such an offence in a flour mill where several persons would be present for the purpose of grinding wheat and other grains. It is further submitted that petitioners have got no criminal antecedent and they are students.

5. I have heard learned counsel for the parties and have perused the material on record including impugned order.

6. From perusal of the FIR, it is evident that the victim/informant has specifically mentioned the incident in which the accused persons passed obscene remarks, indecently touched her and also disrobed her by pulling her *Dupatta*. It has



also been stated in the FIR that upon noise being raised by the informant, people started gathering there and then only, the petitioners fled away from the place of occurrence. As such, the submission of the petitioners that prosecution case is highly improbable and unbelievable has no basis. Learned Sessions Judge has come to the finding that Section 354B IPC is not compoundable and the informant in her re-statement during course of investigation has supported the prosecution story and the supervising authority in para-30 of the case diary has found the case true against the petitioners.

7. Accordingly, in my opinion, the present case is not fit for anticipatory bail. The same is hereby dismissed.

8. However, if the petitioners surrender before the learned court below within fifteen days and seek regular bail, the court below shall consider the same on its own merit without being prejudiced by the order of this Court.

(Anil Kumar Sinha, J)

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