

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55686 of 2022

Arising Out of PS. Case No.-68 Year-2022 Thana- KANHAULI District- Sitamarhi

1. KISHORI MAHTO S/O LATE DHARKHAN MAHTO Resident of Village- Basahiya, P.S.- Kanhauli, District- Sitamarhi.
2. GAUTAM MAHTO S/O YOGI MAHTO Resident of village- Kohbarba, P.S.- Sonbarsa, District- Sitamarhi.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Hans Lal Kumar
For the Opposite Party/s :	Mr.Amit Kumar Rakesh

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 20-01-2023 Heard learned counsel for the petitioners and learned
APP for the State through virtual mode in view of COVID-19.

The petitioners apprehend their arrest in connection
with Kanhauli P.S. Case No.68 of 2022 instituted under Sections
341,323,376,504/34 of the Indian Penal Code.

As per the prosecution story, the girl has alleged that
accused Manish Kumar on the point of knife committed rape
with her six months ago and later after promising that he will
marry her, committed rape several times.

The further allegation is that upon knowledge, when
her parents went to meet with his family members, they promised
that they will ensure marriage of Manish with the girl but later
started demanding dowry and further she came to know that he



is going to marry to some other lady and accordingly the FIR was lodged.

Learned counsel for the petitioners submit that while petitioner no.1 an aged person being the father of Manish, the petitioner no.2 is the brother-in-law (*Bahnoi*) and they have nothing to do with the matter, facts remains that allegation is against Manish that earlier on the point of knife he committed rape and thereafter, he repeated the same several times on the promise of marriage and as she came to know that he is going to marry to other lady, the FIR was lodged.

So far as the dowry part is concerned, the submission is that as the marriage of Manish was to take place some where else, there was no question of demand of any dowry from her. The last submission is that they will be cooperating in the investigation and do not have criminal antecedent.

Learned APP on the other hand submits that the second part of allegation points finger toward these petitioners of demanding dowry for marriage of the victim girl with Manish.

Taking into account the fact that the main allegation of rape is against the accused Manish who on the promise of marriage raped her several times, so far as the allegation of



dowry is concerned, FIR has been lodged and ultimately they will have to face the music, as stated above they will be cooperating with the investigation and diligently appearing in trial, this Court is inclined to extend them privilege of bail.

Let the petitioners be released on bail, in the event of their arrest or surrender before the Sub-ordinate court within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) each with two sureties of the like amount each in connection with Kanhauli P.S. Case No.68 of 2022 to the satisfaction of learned Judicial Magistrate, Sitamarhi, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. with further conditions that:

(i) one of the bailor should be the family member of the petitioners who shall provide official document to show his/her bona fide;

(ii) the petitioner will make himself available to the police as and when required in course of investigation;

(iii) the petitioners shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his/her bail bond by the Trial court itself;

(iv) the petitioners shall appear before the concerned



police station every fortnight for next six months to mark attendance;

(v) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(vi) the petitioners shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

Prakash Narayan/
Ajay Singh

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