

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60818 of 2023

Arising Out of PS. Case No.-417 Year-2021 Thana- BIRPUR District- Supaul

1. Jai Kumar Mukhiya, S/o Late Bhutay Mukhiya, R/O Ward No. 4, Basantpur, P.S- Birpur, District- Supaul.
2. Chandrika Devi, W/O Jai Kumar Mukhiya, R/O Ward No. 4, Basantpur, P.S- Birpur, District- Supaul.
3. Sukmanti Devi @ Sukmati Devi @ Kajal Kumari, W/O Devendra Kumar Mukhiya, D/O Jai Kumar Mukhiya R/O Ward No. 4, Basantpur, P.S- Birpur, District- Supaul.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Alexander Ashok, Advocate
For the Opposite Party : Mr. Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 16-10-2023 Heard learned counsel for the petitioners and learned APP
for the State.

2. The petitioners in the present case are seeking pre-arrest bail in connection with Birpur P.S. Case No. 417 of 2021 in which cognizance has been taken under Sections 363, 366A, 376, 120B of the Indian Penal Code, Section 4/6, 8/10, 17 of the Prevention of Children from Sexual Offences Act and Section 9/10 of Child Marriage Prohibition Act. Petitioner No. 1 has one criminal antecedent. Petitioner nos. 2 and 3 have no criminal antecedent.

3. As per the prosecution story, on 01.12.2021 when the informant was at her home at about 12:45 P.M. the FIR named accused persons came at the door of the informant and abused the informant. One Raj Mukhiya abducted the daughter of the informant



for marrying her by the Scorpio Vehicle.

4. Learned counsel for the petitioners submits that these petitioners are innocent and have been implicated in this case only because petitioner no. 1 is the father, petitioner no. 2 is the mother and petitioner no. 3 is the married sister of the co-accused Raj Kumar Mukhiya with whom the victim girl had eloped. It is further submitted that the said Raj Kumar Mukhiya has already been granted bail by the learned Juvenile Justice Board. It is submitted that the police after investigation has submitted final form against these petitioners but learned court below has taken cognizance against these petitioners.

5. Learned APP for the State has opposed the prayer for pre-arrest bail of the petitioners.

6. Having regard to the facts and circumstances of the case wherein it is submitted on behalf of learned counsel for the petitioners that petitioner no. 1 is the father, petitioner no. 2 is the mother and petitioner no. 3 is the married sister of the co-accused Raj Kumar Mukhiya with whom the victim girl had eloped, the said Raj Kumar Mukhiya having been found juvenile has been granted bail by the learned Juvenile Justice Board and so far as these petitioners are concerned, the police after investigation did not find sufficient materials to proceed against them and submitted final form showing them not sent up for trial but the learned court below has differed with the police report, took cognizance and summoned the



petitioners, in the nature of the materials present before this Court, this Court directs that in case of their arrest or surrender within a period of six weeks from today, the petitioners above named be released on bail in connection with Birpur P.S. Case No. 417 of 2021 on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge VI-cum-Special Sessions Judge, POCSO, Supaul, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

7. 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.

8. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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