

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65716 of 2023

Arising Out of PS. Case No.-536 Year-2022 Thana- SAHARSA COMPLAINT CASE
District- Saharsa

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1. NIRBHAY YADAV @ NIRBHAY KUMAR SON OF LATE RAGHUVANSH PRASAD YADAV RESIDENT OF VILLAGE - MORKAHI, WARD NO.10, POLICE CAMP - PASTPAR, P.S. - SOUR BAZAR, DISTRICT - SAHARSA
 2. MRITYUNJAY KUMAR @ MRITYUNJAY YADAV SON OF LATE RAGHUVANSH PRASAD YADAV RESIDENT OF VILLAGE - MORKAHI, WARD NO.10, POLICE CAMP - PASTPAR, P.S. - SOUR BAZAR, DISTRICT - SAHARSA

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. PUNAM DEVI WIFE OF RAM LAKHAN YADAV RESIDENT OF VILLAGE - MORKAHI, WARD NO.10, POLICE CAMP - PASTPAR, P.S. - SOUR BAZAR, DISTRICT - SAHARSA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar Sinha, Advocate
For the Opposite Party/s : Mr. Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 08-12-2023 Heard learned Counsel for the petitioners and

learned APP for the State.

2. The petitioners apprehend their arrest in connection with Complaint Case No. 536C/2022 for the offence registered under sections 341, 323, 504, 379, 354B, 376, 511 and 34 of the Indian Penal Code.

3. The prosecution case, as per complaint petition of the complainant- Poonam Devi, in brief, is that on 17.05.2022 at about 11:30 AM complainant's goat ate a few pieces of grass of accused persons due to which he beat the goat and it started babbling at the door of the complainant. Hearing it babble, the



complainant abused the unknown persons who hurt the goat thereafter the accused no.1-Nirbhay Yadav came at her door and while abused her. Upon hearing this the accused grabbed her breasts and threatened her to rape while flashing his private part and pounced at her to remove her clothes. Accused climbed on her chest then assaulted her with slaps, fists and Lathi and snatched away ornaments totaling Rs. 19,000/-. On arrival of witnesses accused persons fled away while abusing her and threatening to rape her if police was informed. The complainant informed, Pastpar O.P., but police told her to go and they would visit but they did not. And when she went to the P.S along with her husband she saw the accused persons there talking to police personnel. She returned. The delay in filing the complaint case has been caused due to having been relied on police.

4. Considering the allegation that has come against the petitioner no. 1, Nirbhay Yadav @ Nirbhay Kumar, it would be appropriate that he surrender before the Court and seek regular bail which shall be taken up on the same day and an order be passed without being prejudiced by any observation made herein. Accordingly, the anticipatory bail application against petitioner no. 1 (Nirbhay Yadav @ Nirbhay Kumar) stands rejected.



5. So far as the petitioner no. 2 (Mritunjay Kumar @ Mritunjay Yadav) is concerned, taking into account that no specific allegation has been made against him and he do not have criminal antecedent, this Court is inclined to extend him privilege of anticipatory bail.

6. Let the petitioner no. 2 (Mritunjay Kumar @ Mritunjay Yadav) in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned J.M. 1st Class, Saharsa in connection with Complaint Case No. 536C/2022 subject to condition as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family member of the petitioner no. 2 (Mritunjay Kumar @ Mritunjay Yadav), who shall provide official document to show his *bona fide*;

(ii) the petitioner no. 2 (Mritunjay Kumar @ Mritunjay Yadav) 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 bail bond by the Trial court itself;



(iii) the petitioner no. 2 (Mritunjay Kumar @ Mritunjay Yadav) shall appear before the concerned police station every fortnight for next six months to mark attendance;

(iv) the petitioner no. 2 (Mritunjay Kumar @ Mritunjay Yadav) 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;

(v) the petitioner no. 2 (Mritunjay Kumar @ Mritunjay Yadav) 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)

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