

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.73877 of 2022**

Arising Out of PS. Case No.-100 Year-2022 Thana- FULKAHA District- Araria

MD. KAFIL @ MD. KAPIL Son of Late Shekh Kamil R/o- Bhajanpur, Ward  
No. 02, P.S.- Forbesganj, District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

**CRIMINAL MISCELLANEOUS No. 72483 of 2022**

Arising Out of PS. Case No.-100 Year-2022 Thana- FULKAHA District- Araria

JAGARNATH SINGH Son of Medni @ Maithali Singh Resident of  
Rambagh, Purnea, P.S- Sadar, Dist- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

(In CRIMINAL MISCELLANEOUS No. 73877 of 2022)

For the Petitioner/s : Mr.Arun Kumar Mandal

For the Opposite Party/s : Mr.Sadanand Paswan

(In CRIMINAL MISCELLANEOUS No. 72483 of 2022)

For the Petitioner/s : Mr.Arun Kumar Mandal

For the Opposite Party/s : Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR  
PANDEY**

ORAL ORDER

3      24-04-2023                      Heard the learned counsel for the petitioners as well  
as the learned Special Public Prosecutor for the State.

The petitioners are seeking regular bail in connection  
with Fulkaha P.S. Case No. 100 of 2022, registered for the  
offences punishable under Sections 363, 365, 376, 376 D, B, 34  
of the Indian Penal Code and Sections 4, 6 of POCSO Act, 2012



and Sections 3(2) (v) of the SC/ST Act.

As per allegation, when the daughter of the informant walking on the road, a bolero pick-up van came there and the miscreants forcibly got her seated in that vehicle and fled away. The informant, during the entire night, conducted search but neither the miscreants nor her daughter was found. In the next morning, he received a telephonic message that his daughter was present in Zila Parishad building. He went there where his daughter apprised him that three persons, who were boarded in that vehicle, forcibly committed rape upon her in a very heinous manner, as mentioned in the FIR. When the informant was proceeding towards police station along with his daughter, he saw the same vehicle, which was stopped with the assistance of the villagers and on the intensive interrogation, the accused persons disclosed their names as Md. Kafil (petitioner), Jagarnath Singh (petitioner) and Md. Aoranjeb. When his daughter identified these three accused persons, they misbehaved with the informant and other villagers.

The learned counsel for the petitioners has submitted that for investigation of the offence, a technical team was constituted and the technical team apprehended another pick-up van along with co-accused Shahid. Some incriminating



materials like hair, etc. were recovered from that pick-up van, which did not belong to the petitioners. Co-accused Shahid and Javed were arrested and they apprised the police party that it were they, who committed rape upon the victim along with co-accused Mustkim, Mubarak and Islam, after forcibly getting her down in their vehicle. He has submitted further that the complicity of the petitioners was not found during investigation and the investigating authorities has submitted final form against them. He has also submitted that the victim in her statement under Section 161 of the Cr.P.C. though named the petitioners but in her statement under Section 164 of the Cr.P.C., she did not name the petitioners. The petitioners are under custody since 21.08.2022

On the other hand, the learned Special PP has opposed the prayer for bail and submitted that petitioners are named in the FIR and the prosecutrix in her statement under Section 161 of the Cr.P.C. has named the petitioners.

Considering the above-mentioned facts and circumstances, let the petitioners above-named be released on bail on furnishing bail bonds of Rs.10,000/- each with two sureties of the like amount each to the satisfaction of learned Court of In-Chargess Additional District and Sessions Judge-VI,



Araria in connection with Fulkaha P.S. Case No. 100 of 2022,  
subject to the following conditions:-

- (i) The petitioners shall cooperate in the disposal of trial and make themselves available as and when required by the court.
- (ii) If the petitioners are found involved in future in the similar type of offence, the prosecution will have liberty to file an application before the court below for cancellation of the bail of the petitioners and the learned court below will take decision in accordance with law.
- (iii) Before release of the petitioners, the learned court below shall verify the criminal antecedent of the petitioners and it comes to the notice of the learned court below that the petitioners are involved in any other case, the learned court below shall be at liberty to cancel their bail bonds.

**(Nawneet Kumar Pandey, J)**

Nirmal/Kundan

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