

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 7418 of 2024

Arising Out of PS. Case No.-263 Year-2023 Thana- BHAGWANPUR District- Kaimur
(Bhabua)

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1. Sahendra Bind S/O- Mewa Bind R/O- Village- Tekara, P.S.- Bhagwanpur, Dist.- Kaimur At Bhabua.
 2. Pankaj Bind @ Vikash Kumar S/O- Upendra Bind R/O- Village- Tekara, P.S.- Bhagwanpur, Dist.- Kaimur At Bhabua.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Tribhuwan Narayan, Advocate
For the State	:	Mr. Sadanand Paswan, APP
For the O.P.	:	Mr. Pankaj, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 09-04-2024 Heard learned counsel for the petitioners, learned counsel for the informant as well as learned APP for the State.

02. In the present case, the petitioners are apprehending their arrest in connection with Bhagwanpur P.S. Case No. 263 of 2023, for the alleged offence under Sections 366, 376(D), 120(B), 323, 354(B), 504, 506 of the Indian Penal Code, Section 4, 6 POCSO Act and 3(i)(r)(s), 3(2)(v)(a) of SC/ST Act.

03. As per prosecution case, the petitioners forcibly took away the complainant/informant while she went outside of her towards nature's call. After kidnapping the informant, the petitioner took her away to Bhabhua Road station on motorcycle



and from there to Sikandrabad by train, where she was repeatedly raped by the petitioners for 15 days. Further allegation against other co-accused persons is that they hurled abuses taking caste name of the informant.

04. Learned counsel for the petitioners submits that petitioners are innocent and have been falsely implicated in this case. From the complaint petition, it appears that the occurrence of kidnapping took place on 15.07.2023 and the complainant /informant returned to her home on 26.08.2023 but the case was lodged only on 26.08.2023 and there is no satisfactory explanation for the delay. The prosecution story is not believable that firstly the victim/informant was taken by a motorcycle thereafter, by bus and train to other States and she did not raise any alarm anywhere. Learned counsel further submits that the informant was medically examined and her age was assessed to be 17 to 19 years. The informant is a married lady and her marriage was solemnized in June 2023 in Haryana but she left her matrimonial home and came to Sikandrabad where the petitioner Sahendra Bind used to live. The informant was brought back by her father, who brought her back with the help of his co-villagers. The medical and pathological reports also do not support the prosecution case. Learned counsel



further submits that the witnesses examined during investigation have not supported the prosecution case and rather all the witnesses stated about the informant eloping from her matrimonial home to the place where the petitioner Sahendra Bind had been staying. The petitioners have got no criminal history and both the petitioners are young boy aged about 20 years and 19 years, respectively.

05. Learned A.P.P. for the State as well as learned counsel appearing on behalf of the complainant/informant vehemently opposes the submission made on behalf of the petitioners. Learned counsel for the informant submits that there is allegation of committing gang rape against the petitioners and informant has supported her case in her statement recorded under section 164 Cr.P.C. From the school certificate, the informant is a minor.

06. Having regard to the facts and circumstances and submission made on behalf of the parties and considering the doubt over age of the informant and also the fact that at this age, a girl develops sufficient maturity and further considering the improbable nature of accusation, let the petitioners above named, in the even of their arrest or surrender before the court concerned within a period of eight weeks from



today, be released on bail, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of learned Special Judge POCSO Act-cum-ADJ-IV, Kaimur at Bhabua/concerned court in connection with Bhagwanpur P.S. Case No. 263 of 2023, subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure and other following conditions:

- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the court below, if so required by the learned trial court.

(Arun Kumar Jha, J)

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