

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11656 of 2024

Arising Out of PS. Case No.-315 Year-2023 Thana- CHAINPUR District- Kaimur (Bhabua)

1. Bhutani Devi Wife Of Mahendra Bind Resident Of Village- Sherpur, Ps- Chainpur, Dist- Kaimur At Bhabua P/A Village- Jiganpurawa, Ps- Bhabua, Distt- Kaimur At Bhabua
2. Tetari Devi @ Tetara Devi Wife Of Late Gopal Bind Resident Of Village- Sherpur, Ps- Chainpur, Dist- Kaimur At Bhabua

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajani Kant Pandey

For the Opposite Party/s : Mr. Arvind Kumar Pandey, App 84

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 18-04-2024 Heard the parties.

2. The petitioners are apprehending their arrest in connection with Chainpur P.S. Case No. 315 of 2023 for the offence under sections 343, 366, 376 of the Indian Penal Code and Section 6 of the POCSO Act lodged on 09.10.2023 by the informant, Rita Devi.

3. As per the prosecution story, it has been alleged that her daughter was missing and later got information that Nihor Ram along with the two petitioners who are grand mother and mother with other accused persons have kidnapped the girl was solemnized the married with him. Accordingly, the complaint.

4. Learned counsel for the petitioners submits that as



would be apparent that the petitioner No.1 is the mother of Nihor Kumar @ Nihor Ram while the petitioner No.2 is the *Nani*. The alleged occurrence is of 28.08.2023, the girl returned on 01.09.2023 and complaint was filed on 02.09.2023. Subsequently, on the instruction of the Court, the F.I.R. was lodged on 09.02.2023 but there has been delay in recording the statement of the victim girl which was ultimately done on 07.11.2023. The 164 Cr.P.C. statement is paragraph 32 in which beside Nihor Kumar, the victim girl has also made allegation against the petitioners who played active role in putting her in the room along with him.

5. Learned counsel appearing on behalf of the informant also submits that their role inseparable with the back of Nihor Kumar who committed rape on the minor girl.

6. The role of the two ladies have come in the 164 Cr.P.C. statement. However, the so far as petitioner No.2, Tetari Devi @ Tetara Devi is concerned. As per the petition, she is 61 years of age, his maternal mother-in-law, may have followed her daughter and got herself implicated, this Court is inclined to extend her privilege of anticipatory bail solely on the ground of her age so far as petitioner No.1, Bhutani Devi is concerned, the same is fit to be rejected.



7. Having recorded the order, this Court cannot skip from the fact that the learned Judicial Magistrate, 1st Class while recording the statement of the victim girl under Section 164 of the Cr.P.C. despite recording that she is 15 years of age, has given her name completely overlooking the POCSO Act.

8. The Sub-inspector of Police, Chainpur police station Ms. Akanksha is no better as in paragraphs (33 and 35) she has given the details of the victim girl as also the father's name and the parental address.

9. It seems neither the learned Judicial Magistrate, 1st Class, Kaimur at Bhabhua nor the Sub-inspector of Police (Ms. Akanksha) have ever gone through the POCSO Act.

10. Further, in paragraph 140, the date has been inscribed as 30.02.2024 which in the consideration of the Court can never happen as 30.02.2024 never comes in the month of February in the calendar. The Sub-inspector of Police has even signed and given the date as 30.02.2024 after paragraph 146.

11. Let a copy of this order be sent to the learned Sessions Judge, Kaimur at Bhabhua as also the Director, Bihar Police Academy, Rajgir so that they can go through the case (Chainpur P.S. Case No. 315 of 2023) lodged under Sections 343, 366, 376 of the Indian Penal Code and Section 6 of the



POCSO Act and do the needful to sensitize the Judicial
Officers/Police Officers at an earliest.

(Rajiv Roy, J)

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