

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16157 of 2024

Arising Out of PS. Case No.-410 Year-2023 Thana- BAKHTIYARPUR District- Patna

1. Bipin Kumar @ Bipin Yadav, S/o- Jagdish Singh Village- Champapur, P.S. Bakhtiyarpur, Dist. Patna
2. Sanni Kumar, son of Kailash Prasad Village- Champapur, P.S. Bakhtiyarpur, Dist. Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Anand- Advocate
Mr/s Roop Kishan- Advocate
For the Opposite Party/s : Mr.Raj Ballabh Singh- A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 29-07-2024 1. Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners seek bail in anticipation of their arrest in a case registered for the offences punishable under Sections 341, 323, 376(3), 376(D), 379, 504 and 506 of the Indian Penal Code and Sections 4 and 8 of the POCSO Act.

3. The learned counsel for the petitioners submits that the petitioners are persons with clean antecedent and have been falsely implicated in the instant case by the informant. It is next submitted that informant alleges that she fled with Suraj on 28.09.2023 on false assurance of marriage and reached near a bridge situated at Four-Lane where Suraj stopped the



motorcycle and called his friends including the petitioners and they all committed rape.

4. The learned counsel for the petitioners submits that from perusal of the allegation as alleged in the F.I.R., it would manifest that the informant herself alleges that she was in love with Suraj Yadav and had eloped with him. It is also submitted that allegation of rape is false and fabricated for the reason that it does not appear probable that six persons would have raped the informant and informant would have been in a position to walk to the police station, which is situated seven kilometers away from the place of occurrence.

5. The Investigating Officer of the case in compliance of the order dated 02.07.2024 is present in the Court along with the Forensic Lab Examination Report. The Investigating Officer submits that in the case Suraj, Bittu and Ravi were arrested and their semen were sent for Forensic Examination and the Forensic Examination certifies the presence of semen of Bittu and Suraj, but then, semen of Ravi was not detected. It is also submitted that the petitioners are evading arrest for long and there is specific allegation against them of committing rape along with Sanni Kumar.

6. At this stage, the learned counsel appearing on



behalf of the petitioners submits that during the medical examination, the doctor opined that no external injury was found in front or back portion of the informant. Further, it was also opined that no rape was committed upon the informant. It is also submitted that petitioners have been falsely implicated in the instant case. It is next submitted that had the informant been raped by six persons, then definitely the doctor would have found injuries on the private parts of the informant, but then, no injury was found. The said submission of the learned counsel appearing on behalf of the petitioners is not disputed by the learned A.P.P. and the Investigating Officer that doctor has not found any external injury on her private part and that rape was not committed.

7. The learned counsel for the petitioners at the cost of repetition submits that it was not possible for the informant to walk seven kilometers away from the place of occurrence, had she been raped by six accused persons. It is also submitted that petitioners will not abscond rather will cooperate in the investigation.

8. Learned A.P.P. opposes the anticipatory bail application.

9. Considering the submissions made by the learned



counsel for the petitioners, the petitioners, above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned A.D.J.-VI-cum- Special Judge, POCSO, Patna in connection with Special POCSO Case No.252 of 2023 arising out of Bakhtiyarpur P. S. Case No.410 of 2023, subject to the conditions laid down under Section 438(2) of the Cr.P.C. with a condition that one of the bailors of the petitioners shall be their respective fathers namely, Jagdish Singh and Kailash Prasad.

10. The application stands allowed.

11.However, it is made clear that in the event, if any application is filed by the Investigating Officer before the learned trial Court bringing to its notice that petitioners, despite giving assurance to this Court, are not cooperating in the investigation or are not presenting themselves as and when required, in that even, the learned trial Court shall be at liberty to cancel the bail bonds of the petitioners after recording reasons.

12. The learned counsel appearing on behalf of



the petitioners based on instruction also submits that in the event, if charge-sheet is filed against the petitioners, the petitioners will cooperate in the trial also.

13. Let a copy of this order be sent to the concerned Police Station through the learned trial Court.

14. The personal appearance of Investigating Officer is dispensed with.

(Satyavrat Verma, J)

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