

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26315 of 2024

Arising Out of PS. Case No.-118 Year-2023 Thana- KESARIA District- East Champaran

1. Krishna Das, (Male), aged about 24 years, S/o- Bhagirath Das, R/o- Village- Lala Chhapra Bairiya, PS- Kesariya, Distt- East Champaran.
2. Manoj Das, (Male), aged about 29 years, S/o- Bhagirath Das, R/o- Village- Lala Chhapra Bairiya, PS- Kesariya, Distt- East Champaran.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Wasi Akhtar, Advocate
For the Opposite Party : Mrs. Sharda Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 12-07-2024 Heard learned counsel for the petitioners and learned A.P.P. for the State.

2. The petitioners are apprehending their arrest in connection with Kesariya P.S. Case No. 118 of 2023 dated 09.03.2023 registered for the offences punishable under Sections 147, 341, 323, 325, 307, 354B, 379, 504, 506, 427, 149 of the I.P.C. and Section 8 of the POCSO Act.

3. As per the prosecution case, on 08.03.2023, on the eve of Holi festival, the petitioners alongwith 18 named and 21 unknown persons came to the darwaza of the informant. It is



further alleged that the co-accused Mintu Das grasped the informant's minor daughter and started touching her body indecently. The co-accused Subodh Kumar made her lay on the ground, pulled her Sari and began to do illegal activities. The co-accused Ashok Kumar bit cheek of the informant's daughter. The co-accused Raju Das started pressing the front portion of the informant's upper part of the body. When Chandan Kumar, Raja Kumar and Santosh Kumar came to rescue, they were also assaulted by them. They also looted ornaments, clothes and cash of Rs. 40,000/- from the house of the informant. The villagers brought the injured to Kesariya Primary Health Centre for their treatment.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in the present case. It is submitted that from perusal of the F.I.R. itself, it is apparent that on the eve of *Holi* festival and in group, the petitioners and the co-accused persons had gone to the door of the informant to play *colour* and *Abir* which was objected by the informant and due to which, some scuffle took place between the parties. It is further submitted that during the course of some scuffle, some simple and superficial injury was caused to the informant and other persons. There is



general and omnibus allegation against against the petitioners. The informant's daughter was examined by the Medical Board and the doctor has opined the age of the victim is 18-19 years, hence, no offence under the POCSO Act is made out against the petitioners. The alleged occurrence took place on 08.03.2023 and the F.I.R. has been lodged on 09.03.2023 for which no explanation has been given by the prosecution. The other co-accused person Shashikant Das @ Shashikant Kumar has been granted anticipatory bail by a Bench of this Court vide Cr. Misc. No. 72412 of 2023 under order dated 10.11.2023. The petitioners have three criminal antecedents in which they are on bail as stated in paragraph no. 3 of the bail application.

5.Learned A.P.P. for the State has opposed the prayer for anticipatory bail petition of the petitioners.

6. Considering the aforesaid facts and circumstances of the case, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) each with two sureties of the like amount each to the satisfaction of the learned 7th Additional Sessions Judge-cum-Special Judge, POCSO Act, East Champaran at Motihari in connection with Kesariya P.S.



Case No. 118 of 2023, subject to conditions as laid down under
Section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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