

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29154 of 2024

Arising Out of PS. Case No.-32 Year-2023 Thana- KISHANPUR District- Supaul

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1. Milan Yadav @ Milan Kumar SON OF PATHAK YADAV R/o village- Nawabakhar P.S.- Kishanpur Distt.- Supaul
 2. KAMLESH KUMAR @ KAMLESH YADAV SON OF RAMCHANDRA YADAV R/o village- Nawabakhar P.S.- Kishanpur Distt.- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Yadav, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

2 08-05-2024 1. Heard learned counsel for the petitioners and Mr. Chandra Bhushan Prasad learned A.P.P. for the State.

2. The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 341, 354(B), 376, 504 and 506/34 of the Indian Penal Code as well as Sections 4 and 8 of the POCSO Act.

3. Learned counsel for the petitioners submits that petitioner no. 1 is a person with clean antecedent and petitioner no. 2 has antecedent of one case in which he is on bail. It is further submitted that the informant alleges that on 14.02.2023, at about 05:00 p.m., she along with her mother had gone to cut grass in a wheat field and at about 05:30 p.m. her mother went to another field while the victim remained in the field where



they had gone earlier. It is next alleged that Saroj Kumar arrived from behind and grabbed her and started molesting her and when she tried to raise alarm she was thrashed and put on the ground and thereafter Saroj Kumar committed rape. It is also alleged that when the victim tried to shout seeking help when the accused persons including the petitioners at point of gun threatened her and the accused fled away after Saroj Kumar committed rape.

4. Learned counsel for the petitioners submits that petitioners have been falsely implicated in the present case. It is further submitted that the allegation of committing rape is against Saroj Kumar and the police after threadbare investigation came to a considered conclusion that petitioners are innocent and thus submitted final form no. 236/23, dated 28.11.2023 exonerating the petitioners of the allegation but then the learned trial court differing with the police report took cognizance. It is next submitted that when one investigating agency after threadbare investigation came to a considered conclusion that petitioners are innocent and based on the same investigation cognizance came to be taken whether it would be prudent for the Court to send the petitioners to jail. It is also submitted that the informant falsely implicated the petitioners



for the reason that petitioner no. 2 had deposed against her uncle in a criminal case in which he was convicted and petitioner no. 1 is cousin of petitioner no. 2.

5. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

6. 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 from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Kishanpur P.S. Case No. 32 of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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