

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32879 of 2024

Arising Out of PS. Case No.-123 Year-2022 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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1. Md. Irshad Son of Md. Mustafa Resident of Village- Bagha, P.S.- Khutauna, Dist.- Madhubani
 2. Md. Naim @ Md. Naeem Sonof Md. Subham Resident of Village- Bagha, P.S.- Khutauna, Dist.- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. Jakir Hussain Son of Md. Mansif Resident of Village- Bagha, Ward No. -8, P.S.- Khutauna, Dist.- Madhubani

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Jitendra Bharti, Advocate
For the Opposite Party/s :	Mr.Ram Sumiran Rai, APP
	Mr. Ratnakar Jhar, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 02-09-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners apprehend their arrest in a case registered for the offence under Sections 342, 354 of the Indian Penal Code and Section 8 of the POCSO Act.

3. The prosecution case, in brief, is that on 02.04.2022 at 2 PM, while daughter of informant went to fetch water from the handpump of petitioner no. 2 (Md. Naeem), in the meantime, petitioner no. 2 told the victim that he had stitched her cloths and as such, come home and take it and thereafter, when the victim went inside the room of petitioner no. 2, Md. Irshad (petitioner no. 1) was already present there. After that, petitioner no. 1 closed the room and committed rape with her,



however; when villagers assembled there, petitioner no. 1 fled away, then the victim came to her house and narrated entire story to her family.

4. Learned counsel for the petitioners submits that petitioners have been falsely implicated in this case. No such occurrence, as alleged in the complaint petition, ever took place. From perusal of F.I.R., it is apparent that informant is not eye-witness to the occurrence. He further submits that as per medical report, neither any sign of rape nor any external or internal injury has been found on the body / private part of the victim. The doctor has also assessed the age of victim between 17 to 18 years. The police after investigation submitted final form showing initiation of proceeding under sections 183 & 211 of Cr.P.C. against the informant, but when the informant filed protest petition against police investigation, only thereafter, the present case has been proceeded. Petitioners claim clean antecedent.

5. Learned counsel for the opposite parties vehemently opposed the bail petition and submitted that petitioners are named in the complaint petition and there is specific accusation that petitioner no. 1 committed rape with the victim. Victim is minor and she has supported the prosecution



case in her statement recorded under Section 164 Cr.P.C.

6. Considering the rival submissions of the parties and the fact that police after investigation submitted final form as well as medical report in which doctor has not found any sign of rape on the body of victim or any injury on her private part coupled with the fact that petitioners have got clean antecedent, the prayer for anticipatory bail of petitioners is allowed.

7. Let the above named petitioners, in the event of their arrest/surrender within a period of eight weeks from today, be enlarged on bail on furnishing bail-bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge VII-cum-Special Judge (POCSO Court), Madhubani in connection with C.R. Case No. 123 of 2022, subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Singh, J)

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