

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52966 of 2024

Arising Out of PS. Case No.-315 Year-2022 Thana- MEHSI District- East Champaran

1. Md. Shamim @ Md. Shamim Ansari @ Shamim Ansari Son of Late Phool Mohamad R/O Vill.- Maruabad, P.S.- Mehsi, Dist.- East Champaran
2. Raushan Khatoon @ Raisan Khatoon @ Ruksana Khatoon Wife of Md. Shamim @ Md. Shamim Ansari @ Shamim Ansari R/O Vill.- Maruabad, P.S.- Mehsi, Dist.- East Champaran
3. Mumtaz @ Md. Mumtaz Son of Md. Shamim @ Md. Shamim Ansari @ Shamim Ansari R/O Vill.- Maruabad, P.S.- Mehsi, Dist.- East Champaran
4. Md Samshad Son of Md Samim R/O Vill.- Maruabad, P.S.- Mehsi, Dist.- East Champaran

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Shobha Devi Wife of Vinod Paswan R/O Vill.- Mohabbat Chhapra, P.S.- Mehsi, Dist.- East Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate
For the Opposite Party/s : Ms. Usha Kumari 1, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 21-08-2024 Heard Mr. Abhishek Kumar, learned counsel for

the petitioners as well as Ms. Usha Kumari 1, learned Additional

Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Mehsi P.S. Case No. 315 of 2022, F.I.R. dated 03.11.2022 for the offences punishable under Sections 363 and 366(A) of the Indian Penal Code, Section 08 of the POCSO Act and Sections 3(i)(r)(s) of the SC/ST (POA) Act.

3. According to prosecution case, all these petitioners



have kidnapped the minor daughter of the informant for the purpose of her marriage with the co-accused, Md. Masoom.

4. Learned counsel for the petitioners submits that petitioners have clean antecedent and they have falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioners have not committed any offences as alleged in the F.I.R. He further submits that it appears from the F.I.R that date of occurrence as alleged is 25.10.2022 but the present F.I.R has been lodged on 03.11.2022 i.e. after delay of about 9 days without giving any explanation of the said delay. He further submits that the petitioners have been made accused merely on the ground that the petitioners are the close relatives of the co-accused, Md. Masoom. He further submits that the statement of the victim was recorded under section 164 of the Cr.P.C. in which she has not stated anything about these petitioners.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioners.

6. Considering the aforesaid facts and circumstances that the petitioners have clean antecedent, and the petitioners have been made accused on the basis of the fact that they happened to be the family members of the co-accused, Md.



Masoom and the victim has not stated anything about these petitioners in her statement recorded under section 164 of the Cr.P.C., let the petitioners, above named, in the event of arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten 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 Mehsi P.S. Case No. 315 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

i. Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

ii. If the petitioners tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at



any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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