

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54152 of 2024

Arising Out of PS. Case No.-1061 Year-2022 Thana- BHOJPUR COMPLAINT CASE
District- Bhojpur

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1. Bishwakarma Kumar @ Bishwakarma Paswan S/o Vinesh Paswan R/o vill - Parev, P.s. - Bihta, Distt. - Patna
 2. Sonu Paswan @ Sonu Kumar Paswan S/o Nand Jee Paswan R/o vill - Chaukipur, P.S. - Udwanthnagar, Distt. - Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Neha Devi W/o Tuntun Sharma R/o Bhaluhipur, P.S. - Ara Town, Distt. - Bhojpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gopal Kumar
For the Opposite Party/s : Mr. Ram Anurag Singh

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 02-09-2024 1. 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 punishable under Section 376 of the Indian Penal Code.

3. Learned counsel for the petitioners submits that petitioner no.1 is a person with clean antecedent and the petitioner no.2 has antecedent of one case and the complainant alleges that she came in contact with Bishwakarma through facebook, thereafter friendship developed and Bishwakarma on 06.07.2022 called her at his house at Chaukipur, further she



went to the house of Bishwakarma and he took her in a room, where from before Rohit and Sonu were present, thereafter, Rohit left and Bishwakarma and Sonu started talking and drinking and behaved inappropriately, further, on objection, they threatened with gun and raped in turn and thereafter dropped her by a car at Chandwa crossing and said not to disclose, as they have video graphed the occurrence.

4. The learned counsel submits that petitioners have been falsely implicated in the instant case by the complainant. It is next submitted that complainant and Bishwakarm came in contact through facebook and thereafter friendship developed. It is next submitted that Bishwakarma was not aware that the complainant was a married lady and was having two children as she had not disclosed the said fact when she became friends with Bishwakarma on facebook. It is further submitted that thereafter Bishwakarma and the complainant started talking regularly, on account of which, feeling developed, but then Bishwakarma in order to verify the credence of the complainant requested her to come to his house at Chaukipur, where she came willingly and disclosed that she is married and has two children, on which Bishwakarma asked her not to continue with the relationship and dropped her at Chandwa crossing and the



complainant after coming back instituted the instant case alleging rape. It is further submitted that the husband of the complainant is a drunkard and the complainant is fed up with her husband, as such, she intended to marry Bishwakarma, further when complainant disclosed to him at his house that she is married from before and has two children, on which, Bishwakarma asked her to leave, hence the instant case came to be instituted. It is also submitted that it appears that the entire family is involved in the racket as the witnesses on behalf of the complainant are her husband and father-in-law. It is further submitted that complainant in her evidence has stated that she had gone to the hospital and she was examined and the medical report is at her home but then it is submitted that had there been any medical report confirming rape, in that event, the complainant would have brought the same on record but there is nothing on record to even remotely suggest that the complainant was medically examined for rape, rather her husband in his evidence has stated that she got her wife examined at Ara hospital for bruises and no examination of rape was done, which further contradicts the statement of the complainant that she got herself medically examined and has kept the report at home. It is next submitted that the petitioner no.1 is a student of Ara college



and resides at Patna and petitioner no.2 is his friend.

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 learned trial court where the case is pending/successor court in connection with Complaint Case No.1061© of 2022, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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