

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53687 of 2023

Arising Out of PS. Case No.-140 Year-2009 Thana- BARHARA KOTHI District- Purnia

1. Md. Zakir @ Md. Zakir Hussain Son Of Late Md. Gayas R/O-Sahsool, P.S.-BARHARA Kothi, Distt.-PURNEA
2. Bibi Janifa @ Janifa Khatoon Wife Of Late Md. Gayas R/O-Sahsool, P.S.-BARHARA Kothi, Distt.-PURNEA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vikram Singh

For the Opposite Party/s : Ms. Shaheen Begum

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 30-04-2024 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 Sections 366(A) and 34 of the Indian Penal Code.

3. Learned counsel for the petitioners submits that petitioners are persons with clean antecedent and have been falsely implicated in the instant case by the informant. It is next submitted that petitioner no.2 is aged about 83 years and is mother of petitioner no.1. It is further submitted that the instant F.I.R. was instituted in the year 2009 with an allegation that the petitioners kidnapped the daughter of the informant. It is next



submitted that police after investigation submitted final form as it was not a case of kidnapping. It is further submitted that final form was submitted in the year 2009 but the learned trial court differing with the police report, took cognizance in the year 2012. It is next submitted that after cognizance was taken in the year 2012, the petitioners never ever were served with any summon that cognizance has been taken and their presence is required rather the petitioners were of the view that the case has been closed. It is also submitted that the situation got worsened with arrival of Covid. The learned counsel next submits that the learned trial court also in mechanical manner issues non-bailable warrant of arrest and process under section 82 Cr.P.C. without verifying the record of the case. It is submitted that had the learned Magistrate verified from the record that as to whether summons have been served on the petitioners or not then definitely the learned trial court would have come to a considered conclusion that though summons were issued but were never served on the petitioners, as such, they were not aware of the pendency of the instant criminal case but then non-bailable warrant of arrest and process under section 82 Cr.P.C. were issued. The learned counsel further submits that petitioner no.2 is 83 years old and in the event if she is sent to jail, she



may not survive. Further, the entire future prospect of the petitioner no.1 would also be jeopardized despite the fact that one investigating agency had found the petitioners to be innocent.

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

5. 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 Barhara P.S. Case No.140/2009, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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