

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53062 of 2024

Arising Out of PS. Case No.-188 Year-2021 Thana- FATEHPUR District- Gaya

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1. Anil Turia S/o Hari Pujan Turia R/o Village- Hara Kuhra Tola, P.S- Fatehpur, Distt.- Gaya.
 2. Upendra Turia S/o Hari Pujan Turia R/o Village- Hara Kuhra Tola, P.S- Fatehpur, Distt.- Gaya.

... .. petitioner/s

Versus

1. The State of Bihar
2. Mina Devi W/o Bindeshwar Turia R/o Village- Hara Kuhra, P.S- Fatehpur, Distt.- Gaya.

... .. Opposite Party/s

Appearance :

For the petitioners/s : Mr. Kamal Kumar Sinha, Advocate
For the Opposite Party/s : Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 04-10-2024 Heard Mr. Kamal Kumar Sinha, learned counsel

for the petitioners and Md. Mushtaque Alam, learned APP for

the State.

2. The petitioners are apprehending their arrest in connection with Fatehpur P.S. Case No. 188 of 2021, F.I.R. dated 09.06.2021 for the offences punishable under Sections 376(AB) and 376(D) of the Indian Penal Code and Section 6 of the POCSO Act.

3. According to prosecution case, both the petitioners have committed rape upon the minor daughter of the informant.

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 date of occurrence as alleged in the F.I.R is 21.05.2021 to 22.05.2021 but the present F.I.R was instituted on 09.06.2021 i.e. after delay of 18 days without giving any explanation of the said delay and even the medical report does not support the allegation as alleged in the F.I.R.

5. The learned Additional Public Prosecutor on the basis of material available on record and case diary has vehemently opposed the prayer for bail of the petitioners and submits that statement of the victim was recorded under Section 164 of the Cr.P.C. in which she has categorically stated that the petitioners have committed rape upon her and it appears from the medical report that the date of occurrence is 21.05.2021 but the medical examination was conducted on 25.06.2021 i.e. after one month of the alleged occurrence. Hence, nothing has been found in the medical examination.

6. Considering the allegation as alleged in the F.I.R and the material available on record, I am not inclined to grant the privilege of anticipatory bail to the petitioners in connection



with Fatehpur P.S. Case No. 188 of 2021 pending in the court of
Additional Sessions Judge-VI-cum-Special Judge of POCSO
Act, Gaya.

7. Prayer is refused.

(Rajesh Kumar Verma, J)

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