

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60549 of 2024

Arising Out of PS. Case No.-13 Year-2024 Thana- MAHILA PS District- East Champaran

1. Mishrilal Baitha Son Of Chulahi Baitha Resident Of Village - Karsahiya, P.S. - Dhaka, District - East Champaran, Bihar
2. Shree Chandra Baitha Son Of Chulahi Baitha Resident Of Village - Karsahiya, P.S. - Dhaka, District - East Champaran, Bihar

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vikash Kumar Pankaj
For the Opposite Party/s : Mr. Akshay Lal Pandit

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 28-08-2024 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 offences punishable under Sections 341, 323, 354-B, 504, 506, 120B and 34 of the Indian Penal Code read with Sections 4 and 6 of the POCSO Act.

3. Learned counsel for the petitioners, at the outset, seeks permission to withdraw the present anticipatory bail application with respect to petitioner no. 2 (Shree Chandra Baitha).

4. Permission is accorded.

5. **Accordingly, the present anticipatory bail application is dismissed as withdrawn with respect to petitioner no. 2 only.**

6. Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and the informant



alleges that her minor daughter aged about 14 years was alone in the house when petitioners entered her house and touched her daughter inappropriately, further Mishri scratched her daughter with his nails and bit her on her cheeks while Shree Chandra tore her cloths and on alarm, they fled.

7. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the instant case by the informant. It is next submitted that Dhaka P.S. Case No. 657 of 2022 was instituted by wife of the petitioner no. 1 alleging kidnapping of her daughter by sons and brother of the informant. It is also submitted that from perusal of the allegation as alleged in the FIR, it would manifest that the FIR was instituted after the victim had disclosed about the occurrence, but then the FIR does not even remotely suggest that the victim was raped. It is next submitted that the date of occurrence is 21.04.2024 and the FIR came to be instituted on 10.05.2024 i.e. after a delay of more than 20 days and the statement of the victim, thereafter, was recorded under Section 164 Cr.P.C. wherein she alleged that she was raped, but then medical report does not corroborate rape nor the allegation as alleged in the FIR as recorded hereinabove even remotely suggest that the victim was raped, it is next submitted that the statement of the victim was recorded under Section 164 Cr.P.C. under parental pressure. It is further submitted that



petitioner and Shree Chandra Baitha are own brothers and are government school teachers. It is next submitted that petitioner will not abscond rather will cooperate in the investigation to prove his innocence.

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

9. Considering the submissions made by the learned counsel for the petitioner, the petitioner no. 1 above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Motihari Mahila P.S. Case No. 13 of 2024 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

10. Accordingly, the instant anticipatory bail application stands allowed.

(Satyavrat Verma, J)

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