

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70019 of 2024

Arising Out of PS. Case No.-46 Year-2024 Thana- MAHILA PS District- Buxar

1.

Om Prakash Sharma Son of Late Dina Nath Sharma Resident of Village-Bhadwar, PS- Bagen Gola, Distt.- Buxar
2.

Jai Prakash Sharma Son of Late Dina Nath Sharma Resident of Village-Bhadwar, PS- Bagen Gola, Distt.- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh, Advocate

For the Opposite Party/s : Mr. Pradeep Narain Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

223-10-2024

Heard the learned Advocate for the petitioners and the learned APP for the State.

2. The petitioners apprehend their arrest in connection with Buxar (Mahila) P.S. Case No. 46 of 2024, registered for the offences punishable under Sections 126(2), 115, 70(1), 303(2), 352, 351(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023.

3. Based upon the written report, the prosecution alleges that both the petitioners along with one another co-accused person came at the scrap shop of the informant and started locking the shop. When the informant raised objection, the petitioners started abusing and assaulting the informant and also threatened with dire consequences. With regard to the alleged incidence, when the informant went to the local police station to lodge FIR, the same was not taken up by the police



and while she was returning to home, in the meantime, the petitioners caught hold her and co-accused Arun Paswan committed rape.

4. Learned Advocate for the petitioners drawing the attention of this Court to the *vanshavali* contended that the informant is none else but the cousin of the petitioner and only on account of a family feud, arisen on account of partition, the present FIR has been instituted. The narrations made in the FIR clearly suggest that the alleged occurrence took place on 14.07.2024, but surprisingly, the present FIR has been instituted on 17.07.2024 and further the same was sent to the Court of learned Magistrate on 19.07.2024. Even if the allegation taken to be true against the petitioners, it is only alleged that the informant was abused and assaulted by them. So far the allegation of commission of rape is concerned, that has been attributed against co-accused Arun Paswan. The petitioners are men of fair antecedent and they undertake that they will fully co-operate in the investigation and in the proceeding of the Court. It is lastly contended that the victim was also examined by the medical board. However, no recent sign of any sexual act has been found, apart from the fact that she has not sustained any injury.



5. On the other hand, learned counsel for the State opposed the pre-arrest bail application and submits that the serious nature of allegation has been levelled against the petitioners and others.

6. Regard being had to the submissions made on behalf of the parties and considering the delay in lodging of the FIR, coupled with the medical report and the fair antecedent of the petitioners, as well as the relationship between the parties, let the petitioners above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs. 10,000/- (ten thousand) **each** with two sureties of the like amount each to the satisfaction of the learned S.D.J.M., Buxar in connection with Buxar (Mahila) P.S. Case No. 46 of 2024, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioners.

(Harish Kumar, J)

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