

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59007 of 2024

Arising Out of PS. Case No.-7 Year-2024 Thana- MAHILA P.S. District- Bhojpur

Rohit Kumar Rai @ Rohit Yadav Son of Hari Mohan Yadav @ Harimohan Ray Resident of Village- Dumaria, P.s.- Gidha, Dist.- Bhojpur at Ara.

... .. Petitioner/s

Versus

- 1. The State Of Bihar
- 2. Upendra Kumar Singh Son of Late Baccha Singh R/O Vill.- Mokampur, P.s.- Gidha O.P., Gidha, Dist.- Bhojpur at Ara.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 77215 of 2024

Arising Out of PS. Case No.-7 Year-2024 Thana- MAHILA P.S. District- Bhojpur

Prince Kumar Rai @ Prince Yadav @ Prince Kumar S/o Anish Rai R/o Village-Dumaria, P.S.- Gidha, District- Bhojpur at Ara

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Upendra Kumar Singh S/o Late Baccha Singh R/o Village-Mokampur, P.S.- Gidha O.P. (Gidha), District- Bhojpur at Ara

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 59007 of 2024)
For the Petitioner/s : Mr. Shaishav Kumar, Advocate
For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP
(In CRIMINAL MISCELLANEOUS No. 77215 of 2024)
For the Petitioner/s : Mr. Shaishav Kumar, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 03-12-2024 Heard Mr. Shaishav Kumar, learned counsel for the

petitioners and Mr. Bhanu Pratap Singh (Cr. Misc. No. 59007 of

2024) & Mr. Sanjay Kumar Pandey (Cr. Misc. No. 77215 of

2024), learned Additional Public Prosecutors for the State.



2. The petitioners are apprehending their arrest in connection with POCSO P.S. Case No. 38 of 2024 arising out of Mahila P.S. Case No. 07 of 2024, F.I.R. dated 02.02.2024 for the offences punishable under Sections 363, 376(D) and 376DA of the Indian Penal Code, Section 27 of the Arms Act and Section 6, 8 & 12 of the POCSO Act.

3. According to prosecution case, on 01.02.2024 when the informant along with his son was attending a marriage ceremony he received a call from his wife that some boys armed with pistol entered into his house and took away his daughter. Thereafter, the informant along with his family members and co-villagers started searching the daughter and on search they saw the victim in unconscious state with disturbed cloths in the field.

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 although the petitioners are named in the FIR but the allegation as alleged in the FIR is false and fabricated and the petitioners have not committed any offence as alleged in the FIR. He further submits that statement of the victim was recorded under Section 164 Cr.P.C. in which she has not taken the name of the petitioners.



He further submits that the police after investigation submitted the chargesheet and not found the case true against the petitioners on 21.03.2024 but the learned Court below differing with the final form of the prosecution has taken cognizance against the petitioners vide order dated 21.03.2024 itself.

5. Learned Additional Public Prosecutors have vehemently opposed the prayer for bail of the petitioners.

6. Considering the aforesaid facts, the petitioners have clean antecedent, victim has not stated anything against the petitioners in her 164 statement and the police has not found the case true against the petitioners, let the petitioners, above named, in the event of arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Addl. District and Sessions Judge VI Cum Special Judge, POCSO, Ara in connection with POCSO P.S. Case No. 38 of 2024 arising out of Mahila P.S. Case No. 07 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

i. Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court



and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bonds of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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