

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74680 of 2023

Arising Out of PS. Case No.-191 Year-2023 Thana- SANOKHAR District- Bhagalpur

PRIYANSHU KUMAR Son of Nirmal Mandal @ Nirmal Kumar R/o vill -
Karhabil, P.O. - Shiv Pahar, P.S. - Dumka Muffasil, Distt. - Dumka
(Jharkhand), at present R/o vill - Dovi, P.S. - Sanokhar (Amdanda), Distt. -
Bhagalapur Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 76991 of 2023

Arising Out of PS. Case No.-191 Year-2023 Thana- SANOKHAR District- Bhagalpur

HIMANSHU KUMAR @ GOLU S/O NIRMAL MANDAL @ NIRMAL
KUMAR PERMANENT R/O VILLAGE- KARHABIL, P.O.- SHIV PAHAR,
PS. DUMKA MUFFASIL, DIST. DUMKA (JHARKHAND). AT PRESENT
R/O VILLAGE- DOVI, PS. SANOKHAR (AMDANDA), DIST.
BHAGALPUR. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 74680 of 2023)

For the Petitioner/s : Mr.Pritish Kumar Lal

For the Opposite Party/s : Mr.Shailendra Kumar

For the informant : Mr. Diwakar Yadav

(In CRIMINAL MISCELLANEOUS No. 76991 of 2023)

For the Petitioner/s : Mr.Pritish Kumar Lal

For the Opposite Party/s : Mr.Binod Kumar

For the informant : Mr. Diwakar Yadav

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 3 05-03-2024 1. Heard learned Counsel for the petitioners and learned
Additional Public Prosecutor for the State, in both the
anticipatory bail applications.
2. These applications, for grant of anticipatory bail, arise out
of Sanokhar (Amdanda) Police Station Case No. 191 of
2023, dated 03.08.2023, disclosing offences punishable
under Sections 376/379/504/506/34 of the Indian Penal
Code.



3. The prosecution case, as per the First Information Report, is that the petitioners, along with other co-accused persons, entered into the house of the informant-victim lady and committed rape upon her on gun point. The accused persons threatened the informant and exploited her physically for a long period of time and also took away Rs. 50,000/- and jewellery kept in the alamirah of the informant.
4. Learned Counsel for the petitioners submits that both the petitioners are own brothers and have falsely been implicated in this case by the informant at the behest of her husband, namely, Ashish Kumar. He next submits that the petitioner, Himanshu Kumar @ Golu, is running a shop in the locality and the husband of the informant is working at Haryana for earning his livelihood. In absence of her husband, the informant used to come o the shop of the petitioner, Himanshu Kumar @ Golu, and intimacy developed between them. The relationship developed further and the petitioner, Himanshu Kumar @ Golu, started visiting the house of the informant almost regularly. The relationship between the petitioner, Himanshu Kumar @ Golu, and the informant came to the



knowledge of the elder brother of the informant's husband, who resides in the same village, adjacent to the house of the informant. The elder brother of the informant's husband informed his brother, Ashish Kumar, i.e. husband of the informant, regarding the illicit relationship between the two. The statement of the elder brother of the informant's husband, under Section 161 of the Code of Criminal Procedure, 1973, was recorded in paragraph 37 of the case diary, who, in his statement, has disclosed the entire story of relationship between the petitioner, Himanshu Kumar @ Golu, and the informant. He has not disclosed the name of the petitioner, Priyanshu Kumar, who is the brother of petitioner, Himanshu Kumar @ Golu, as the person who also visited the house of the informant at any point of time. The statement of the uncle of the informant's husband, under Section 161 of the Code of Criminal Procedure, 1973, was also recorded and it is mentioned in paragraph 38 of the case diary, who has almost repeated the statement of the elder brother of the informant's husband regarding the illicit relationship between the petitioner, Himanshu Kumar @ Golu, and the informant.



5. On the other hand, learned Counsel for the informant vehemently opposes the prayer for bail and submits that the informant, in her statement recorded under Section 164 as well as Section 161 of the Code of Criminal Procedure, 1973, has supported the prosecution story. The process under Section 82 of the Code of Criminal Procedure, 1973 has been issued against the petitioners, as such, these anticipatory bail applications are not maintainable.
6. In reply, learned Counsel for the petitioners submits that the petitioners have not been declared proclaimed offenders under Section 82 (4) of the Code of Criminal Procedure, 1973 and before issuance of process under Section 82 of the Code of Criminal Procedure, 1973, the petitioners had approached this Court in the present anticipatory bail applications and this Court granted interim relief to the petitioners that no coercive step shall be taken against them during the pendency of these applications.
7. Regards being had to the submissions advanced on behalf of the parties and taking into consideration the statement of the elder brother and uncle of the informant's husband



and the fact that the petitioners have not been declared proclaimed offenders, I am inclined to grant the petitioners privilege of anticipatory bail.

- 8. These applications are, accordingly, allowed.
- 9. Let the petitioners, above named, in the event of their arrest or surrender before the Court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Bhagalpur, in connection with Sanokhar (Amdanda) Police Station Case No. 191 of 2023, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.
- 10. This is subject to the condition that the petitioners shall present themselves before the police/Court, as the case may be, as and when required and in the event of failure on their part to appear before the Court on two consecutive occasions, their bail bonds shall be liable to be cancelled.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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