

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83538 of 2024

Arising Out of PS. Case No.-322 Year-2023 Thana- PALIGANJ District- Patna

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1. Soni Devi W/O- Nirmal Kumar Tiwari @ Nirmal Tiwari Village- Mishra Tola Po- Jitaura Ps- Piaro Dist-Bhojpur, Presently residing in the house of Amit Kumar, Khanpura Road Ps- Paliganj Dist- Patna
 2. Nirmal Kumar Tiwari @ Nirmal Tiwari S/o- Mahendra Tiwari, Village- Mishra Tola Po- Jitaura Ps- Piaro Dist-Bhojpur, Presently residing in the house of Amit Kumar, Khanpura Road Ps- Paliganj Dist- Patna
- Petitioner/s

Versus

1. The State of Bihar
 2. Roshni Kumari D/o- Nirmal Kumar Tiwari @ Nirmal Tiwari, permanent R/O Village- Mishra Tola Po- Jitaura Ps- Piaro Dist-Bhojpur, presently residing in the house of Amit Kumar, Khanpura Road, Ps- Paliganj Dist- Patna
- Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh, Advocate
For the Opposite Party/s : Mr. Dinesh Singh, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 11-12-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners apprehend arrest in connection with Paliganj P.S. Case No. 322 of 2023 dated 14.06.2023 instituted for the offence punishable under Sections 363, 376/34 of the Indian Penal Code and Section 4 of the POCSO Act.

3. The prosecution case, in short, is that on the alleged date of occurrence, when the informant was going to coaching from her room, two persons came there on a motorcycle and



forcibly took her to village Tina, P.S. Chandi, District, Nalanda, where she was detained in a room. On 03.05.2023, co-accused Saroj Devi & Anju Devi forcibly got the informant married with co-accused Deepak Kumar Pandey. Thereafter Deepak Kumar Pandey established physical relation with the informant.

4. Learned counsel for the petitioners submits that the petitioners are innocent and they have been falsely implicated in this case. It is further submitted that both the petitioners are the parents of the victim girl. Learned counsel for the petitioners submits that the daughter of the petitioners was forcibly kidnapped by the named accused persons and later on, co-accused, Deepak Kumar Pandey established physical relation with her without her consent. It is further submitted that the statement of the victim was not recorded as per her free will rather her signature was forcibly taken by the local police on a paper which is made part of the present First Information Report. The victim girl (informant) made a written complaint in her own hand writing to the S.H.O., Paliganj on the same day i.e. 14.06.2023 which was not taken on record. The victim girl on the very next day i.e. on 15.06.2024 submitted her application to the Senior Superintendent of Police, Patna along with the copy of her original application which was given to the



S.H.O., Paliganj and requested to look into the matter. The statement of the victim girl under Section 164 Cr.P.C. was recorded by learned Magistrate and she was also medically examined by the doctor. After investigation, the Investigating Officer submitted charge sheet under Sections 9 and 10 of the Child Marriage Prohibition Act, 2006 against the petitioners and named accused persons. It is further submitted that *vide* order dated 27.03.2024, the learned Special Judge, POCSO Act, Patna after perusing the charge sheet, took cognizance under Sections 363, 354, 366, 376 & 506 of the Indian Penal Code, Sections 6, 17 & 18 of the POCSO Act and Sections 9, 10 & 11 of the Child Marriage Prohibition Act against the petitioners and the named accused persons. Learned counsel for the petitioners further submits that in the present case, the named accused persons have been released on bond by the Investigation Officer under Section 41(1) Cr.P.C. Lastly, it has been submitted that petitioners have no criminal antecedents.

5. On the other hand, learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioners.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest / surrender of the petitioner within a period of



six weeks from today, in connection with Paliganj P.S. Case No. 322 of 2023 corresponding to Special POCSO Case No.162 of 2023, they shall be released on bail 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 Additional Sessions Judge- VII, cum Special Judge (POCSO Act), Patna, subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Khatim Reza, J)

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