

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8079 of 2025

Arising Out of PS. Case No.-43 Year-2023 Thana- MAHILA P.S. District- Sitamarhi

1. Krish Kumar Sah @ Rohit Kumar Sah @ Krish Kumar Son of Krishna Kumar Sah @ Krishna Kumar village- ward no. 2, madhwanpur, PS- Madhwanpur, Dist- Madhubani
2. Suraj Kumar @ Suraj Sah son of Sanjay Sah Village - RM 4-397-398, Rangamati sindri, Ps- Baliapur, Dist- Dhanbad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sinha
For the Opposite Party/s : Mr. Anuj Kumar Shrivastava

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 14-02-2025 1. Heard learned counsel for the petitioners, learned A.P.P. for the State and the learned counsel appearing on behalf of the informant.

2. The petitioners apprehend their arrest in a case registered for the offence punishable under Sections 341, 323, 498(A), 379, 376, 504, 506 and 34 of the Indian Penal Code & Sections 3/4 of the D.P. Act.

3. Learned counsel for the petitioners submits that petitioners are persons with clean antecedent and are aged about 19 and 20 years respectively. It is next submitted that the informant alleges that her marriage was solemnized with Rahul on 03.05.2023 and after marriage the petitioners along with



Raju acted inappropriately with her and also committed rape and on complaint to her husband and mother-in-law, they scolded the informant saying that they are brother-in-laws (Devar). It is further alleged that the accused persons also gave her medicine, on account of which, her two months pregnancy was aborted and the accused persons were pressurizing her to indulge in immoral act with other male persons.

4. The learned counsel for the petitioners submits that petitioner no.1 is own maternal cousin of Rahul and stays in Dhanbad, while petitioner no.2 is son of Aunt (Mausi) of Rahul and stays at Madhubani. It is submitted that the petitioners have been falsely implicated in the instant case by the informant. It is next submitted that on account of dispute with her husband, the informant alleges that she was raped by her brother-in-laws, in order to coerce her husband into submission. It is further submitted that date of occurrence is 26.08.2023 and the F.I.R. came to be instituted on 07.12.2023 i.e. after a delay of more than three months, which casts an aspersion on the case of the prosecution. It is further submitted that had the informant been raped by her brother-in-laws, as alleged in the F.I.R., in that event, she would have immediately informed her family members, since she alleges that her husband and mother-in-law



were not listening to her. It is also submitted that had the informant informed her family members, in that event, the F.I.R. would have been instituted promptly but the delay in instituting the F.I.R. amply demonstrates the falsity of the allegation. It is next submitted that the informant has supported her case in her statement recorded under Section 164 Cr.P.C., wherein she has stated that her in-laws started demanding Rs.17 lacs to recover the loss of her husband in the share market, for which, they were pressurizing her for doing immoral act. The learned counsel submits that since the husband of the informant lost money in the share market, as such, a dispute had arisen in between the informant and her husband and the petitioners being cousin brothers of Rahul were not interested in the dispute nor they supported the informant against Rahul. It is also submitted that it does not appear probable that all the accused persons would have committed the occurrence of rape with the informant. It is next submitted that the date of occurrence is also not alleged in the F.I.R., which further casts an aspersion on the case of the prosecution.

5. The learned counsel for the petitioners next submits that petitioners being cousin brothers of Rahul are not staying with him and as such they were not even aware that they have



been implicated in the instant case, as such, when they came to know about their implication, they approached the learned District Court for seeking anticipatory bail but then by that time process under Section 82 Cr.P.C. was issued. It is further submitted that even the allegation of rape is not corroborated by any injury report. It is next submitted that if privilege of bail is granted to the petitioners, the petitioners will not abscond rather will co-operate in the trial to prove their innocence.

6. Learned A.P.P. for the State and the learned counsel appearing on behalf of the informant opposes the prayer for anticipatory bail of the petitioners but then are not in a position to rebut the submission of the learned counsel appearing on behalf of the petitioners that the F.I.R. came to be instituted after a delay of more than three months and the date of occurrence is not alleged in the F.I.R. nor the informant even remotely suggested that she had informed her parents about the occurrence.

7. Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/-



(Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned trial court where the case is pending/successor court in connection with Sitamarhi Mahila P.S. Case No.43/2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

8. However, it is made clear that in the event if the Investigating Officer of the case files an application before the learned trial court bringing to its notice that the petitioners despite giving assurance to this court are not co-operating in the investigation in that event the learned trial court shall be at liberty to cancel the bail bonds of the petitioners after recording reasons.

(Satyavrat Verma, J)

amit/-

U		T	
---	--	---	--

