

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38179 of 2025

Arising Out of PS. Case No.-513 Year-2024 Thana- CHIRAIYA District- East Champaran

1. Md. Aslam @ Aslam, S/O Samsuddin, Resident Of Village- Dipahi, Ps- Chiraiya, Dist- East Champaran
2. Anwar, S/O Samsuddin, Resident Of Village- Dipahi, Ps- Chiraiya, Dist- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Jasmullah Mansuri, S/O Wali Alam, Resident Of Village- Dipahi, Ps- Chiraiya, Dist- East Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Sumit Kumar Singh, Adv.
For the Opposite Party/s : Ms. Gulnar Begum, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 03-09-2025 Heard Mr. Sumit Kumar Singh, learned Advocate

appearing on behalf of the petitioners and the learned Additional

Public Prosecutor for the State.

2. The petitioners apprehend their arrest in connection
with Chiraiya P.S. Case No. 513 of 2024, registered for the
offences punishable under Sections 126(2), 127(2), 115(2), 64,
352 and 3(5) of the Bharatiya Nyaya Sanhita and Section 4 of
the POCSO Act.

3. Based upon the written report the prosecution
alleges that the minor daughter of the informant was subjected
to teasing at the hands of co-accused Rizwan, who later on



established physical relationship on the pretext of marriage. When the victim pressurized him for marriage, on 11.11.2024, while she was going to her uncle's house, in the meanwhile, the petitioners alongwith other accused persons, including co-accused Rizwan caught hold the victim and the petitioner took her on his shoulder and sat with her in black vehicle no. BR05BG2020. On the screaming made by the victim, the accused persons thrown her outside the vehicle and fled away.

4. Learned Advocate appearing on behalf of the petitioners taking this Court through the FIR has contended that *prima facie* it appears that all the family members were knowing the fact of relationship of the victim with the co-accused Rizwan and when he did not show his inclination, the present FIR came to be lodged and this fact has also been corroborated with the statement of the victim recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita. It is further contended that the alleged occurrence took place on 16.11.2024, but surprisingly the present FIR came to be lodged on 12.12.2024. The statement of the victim was recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, wherein she has categorically stated that she was in relationship with co-accused Rizwan and only when she mount pressure



upon him for solemnization of marriage, it was refused, thereupon dispute has arisen. The victim was also examined by the medical board, wherein her age has been assessed between 18 to 19 years as is evident from the paragraph 75 of the case diary; hence no penal provisions of the POCSO Act is attracted and thus, notice is not even required, is the contention of learned Advocate. The petitioners are none else, but the uncle and father of the co-accused Rizwan. Moreover, in the statement of the victim there is no allegation of any overt act, except the allegation that they tried to forcefully allow her to sit in the vehicle. The petitioners are men of fair antecedent and they undertake that they would fully cooperate in the proceeding of the Court.

5. On the other hand, learned Advocate for the State opposed the pre-arrest bail application and submits that on the pretext of marriage the victim girl, who was minor at that point of time, was subjected to sexual exploitation and the petitioners being father and uncle of the co-accused, have actively participated in the crime.

6. Having considered the submissions set forth by learned Advocate for the respective parties and taking note of the delay in lodging of the FIR, coupled with the statement of the victim recorded under Section 183 of the Bharatiya Nagarik



Suraksha Sanhita and the medical report ascertaining the age of the victim in between 18-19 years, let the petitioners above named be released on bail, in the event of their 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) with two sureties of the like amount **each** to the satisfaction of the learned 6th District and Additional Sessions Judge-cum-Exclusive Special Judge, POCSO Act, East Champaran at Motihari in connection with Chiraiya P.S. Case No. 513 of 2024, subject to the conditions laid down in Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023 with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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