

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77565 of 2024

Arising Out of PS. Case No.-50 Year-2024 Thana- Banma Itahari District- Saharsa

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1. Hemant Kumar S/o- Manoj Bhagat Moh- Banma Dih Tola W.No- 14, Ps- Banma Itahari Dist- Saharsa
 2. Manoj Bhagat S/o- Rameshwar Bhagat Moh- Banma Dih Tola W.No- 14, Ps- Banma Itahari Dist- Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pramila Devi W/o- Baiju Thakur Moh- Banma Dih Tola W.No- 14, Ps- Banma Itahari Dist- Saharsa

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Uday Chand Prasad
For the Opposite Party/s : Mr.Akshay Lal Pandit

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

4 11-04-2025 Heard learned Counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The present application is for grant of anticipatory bail, in connection with Itahari P.S. Case No.50 of 2024 for offences under Sections 341, 323, 365, 366A, 376 of the Indian Penal Code.

3. By the earlier order dated 20.11.2024, notices were issued to the informant/O.P. No.2 and the same were also validly served, as would be borne out from the records of the case. Today, when the matter was taken up once again for the grant of anticipatory will, learned counsel for the informant/O.P.



No.2 has chosen not to appear.

4. The allegation, as leveled in the complaint petition filed by the complainant is that, while she was sleeping along with her minor daughter, aged around 16 years, accused No. 1 (petitioner no. 1) and accused No.2 (petitioner no. 2) entered and came inside the house of the complainant and it is alleged that the petitioner no. 1 pulled the minor daughter of the informant and forcibly took her away on a motorcycle by threatening the informant. There is a further allegation on accused petitioner No. 2 that he took away a box kept in the house. It has been further stated that when the informant went into the house of the accused persons to inquire about her daughter, she was assaulted by accused Nos. 2 and 3, who were present in the house.

5. Learned counsel for the petitioners submits that although the occurrence is said to have taken place on 27.05.2024, the present case came to be lodged on 24.06.2024 after about one month of the occurrence. Learned counsel for the petitioners also submits that the petitioners are also residents of the same locality as that of the informant and raises a doubt on the entire case on the pretext as to why there was no information to the police in case the minor daughter of the



informant was kidnapped. Learned counsel for the petitioners further submits that the entire allegations leveled against them are false and fabricated, and as a matter of fact, there was an enmity between the petitioner no. 2 and the informant's husband due to some transaction of money, and it is for this reason that he was made an accused in the present case. Learned counsel for the petitioner also submits that there was no medical examination of the girl to substantiate the allegations leveled in the complaint. It has also been stated that there is not a single witness, who has even seen the petitioner taking away the daughter of the complainant.

6. Learned APP for the State opposes the application for a grant of anticipatory bail on the ground that the statement of the victim girl was recorded both under Sections 161 and 164 Cr.P.C., in which she has supported the allegations that have been leveled against the petitioners and there is a specific allegation of committing rape against petitioner no. 1. No doubt, it is a fact that the statement has been recorded after a delay as submitted by learned counsel for the petitioners. Be that as it may, taking into account the statements of the victim girl who has supported the allegations by imputing specific allegation of committing rape on petitioner no. 1, I am not inclined to grant



the privilege of anticipatory bail to petitioner No. 1.

7. However, so far as the case of petitioner No. 2 is concerned, in absence of direct allegations against him and also considering that there is a scope of his false implication as he happens to be the father of petitioner no. 1, I am inclined to extend the privilege of anticipatory bail to the petitioner.

8. Considering the above facts and circumstances, let the petitioner No.2, above named, having no criminal antecedent, in the event of his arrest or surrender before the Court below within four weeks, 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 Additional Sessions Judge-VI-cum-Special Judge (POCSO), Saharsa, in connection with Itahari P.S. Case No.50 of 2024, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure/Section 482 (2) of the B.N.S.S., 2023 and subject to the further condition that the petitioner shall co-operate in the investigation/trial.

(Soni Shrivastava, J)

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