

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39878 of 2014

Arising Out of PS.Case No. -78 Year- 2014 Thana -NAUGACHIA District- BHAGALPUR

1. Jai Prakash Kumar Son of Late Rajdhari Kumar
2. Meera Devi Wife of Jai Prakash Kumar Both are resident of village -
Tetri, P.S. - Naugachiya, District - Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha

For the Opposite Party/s : Mr. Iftekhar Mahmood (App)

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

3 23-07-2015 This petition is filed under section 438 of the Code of Criminal Procedure. The petitioners figured as accused in Naugachiya P.S. Case No. 78/14, wherein offences under section 304-B read with section 34 and 498(A) of the Indian Penal Code, apart from sections 3 and 4 of the Dowry Prohibition Act were alleged. Apprehending their arrest, the petitioners filed ABP No. 1935 of 2014 in the court of Sessions Judge, Bhagalpur. The same was rejected on 30th August, 2014.

Heard learned counsel for the petitioners and learned A.P.P. for the State.

One of the contentions advanced by the learned counsel for the petitioners is that the case against the petitioners was split up, and in S.T. No. 124 of 2015 pending in the court of



Additional District Judge IInd, Naugachia, the prosecution witness has turned hostile. Recently, this Court has come across the serious irregularities that are being committed, particularly in cases, where the offence punishable under section 304(B) is alleged. The modus operandi is that one of the accused, by and large, husband of the deceased, surrenders before the court, and as regards the others, the case is split , and even while the rest of the accused are at large, the trial of the case of only one of the accused is taken up. Witnesses are managed and once an acquittal is obtained in the case against the husband of the deceased, the same is cited as basis for granting anticipatory bail against the other accused. This procedure is liable to be deprecated. It is with the collusion of the officials in the Police Department, and in some cases the undue haste exhibited by the judicial officers, that such tendencies are taking place.

2. Therefore, it is directed that in none of the cases where the offences punishable under section 304(B) of the Indian Penal Code is alleged, the concerned court shall permit the splitting of the cases, and unless all the accused are arrested or granted regular bail or anticipatory bail, it shall not be split at all. The trial shall be comprehensive, and the officer who deviates and acts other than this, shall be liable to be proceeded against.

3. On merits, this Court is not inclined to grant anticipatory bail to the petitioners. It is left open to them to appear before the court below. The trial in S.T. No. 124 of 2015 shall stand stayed, and further steps shall be taken only after the case pertaining to the petitioners is registered and clubbed with S.T.No. 124 of 2015.

4. If the petitioners file an application for bail after surrender, the same shall be taken up and orders shall be passed on merits on the same day, duly taking into account the age and status of the petitioners.

The Registrar General of this Court shall ensure that the copies of this order are circulated to all the District and Sessions Judges, and all the Superintendents of police in the State.

(L. Narasimha Reddy,CJ)

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