

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.46644 of 2014

Arising Out of PS.Case No. -50 Year- 2014 Thana -HASPURA District- AURANGABAD

- =====
1. Lalita Kumari @ Lalita Devi Wife of Bharat Kumar
 2. Bharat Kumar Son of Birjulal Singh Both are resident of village- Piroo, Police Station- Haspura in the district of Aurangabad (Bihar). At Present both are residing in Mohalla- Shastrinagar, Police Station- Rampur in the district of Gaya

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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with

Criminal Miscellaneous No.46748 of 2014

Arising Out of PS.Case No. -50 Year- 2014 Thana -HASPURA District- AURANGABAD

- =====
1. Ram Kewal Mahto Son of Late Bachchu Mahto
 2. Ajay Kumar Son of Ramkewal Mahto
 3. Anuj Kumar Son of Ramkewal Mahto
 4. Anirudh Kumar Son of Ramkewal Mahto All are resident of village - Konch Dih, Police Station - Konch in the district of Gaya

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.46644 of 2014)

For the Petitioner/s : Mr. Ranjeet Kumar, Adv
For the Opposite Party/s : Mr. Jitendra Kr. Singh No.1(App)
For the Informant : Mr. Santosh Kumar Pandey, Adv

(In Cr.Misc. No.46748 of 2014)

For the Petitioner/s : Mr. Ranjeet Kumar, Adv
For the Opposite Party/s : Mr. Upendra Kumar(App)
For the Informant : Mr. Santosh Kumar Pandey, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

4 03-09-2015

Since both these cases have been restored today vide separate orders passed in Criminal Miscellaneous No. 37553 of 2015 and 37555 of 2015, this Court has also heard learned counsel for the parties, on the merits of this case.

2. The petitioners Lalita Kumari and Bharat Kumar facing prosecution for the offences punishable under Sections-420, 406 and 34 of the Indian Penal Code, have come out with a cut out defence that whatever allegations has been made by the informant either in respect of arranging a forged/invalid Teacher's Training Certificate or being facilitator in arranging the marriage of the daughter of the informant or the certificate arranged in the name of the wife of informant, to be forged, would hardly make out any criminal offence much less the offence for which Haspura P.S. Case No. 50 of 2014, has been lodged against the petitioners.

3. In the other case i.e. Criminal Miscellaneous



No. 46748 of 2014, the four petitioners have come out to say that the entire story of fixing marriage, engagement as with regard to the married daughter of informant Umesh Kumar, is out and out a false story, inasmuch as, the daughter of the informant had already after getting employed arranged her own marriage and in fact has already married and therefore, there would be no criminality if the alleged engagement of the daughter of the informant with the son of the petitioner no. 1 i.e Anuj Kumar, petitioner no. 3 did not materialise in their marriage.

4. On the other hand, learned counsel for the informant, Umesh Kumar, has submitted that initially it was Lalita Kumari and her husband, Bharat Kumar, who had made a false representation about the petitioners of the other case to be good persons and also suggesting marriage in their family. He next submits that there are unimpeachable evidence to show that both Anuj Kumar as also the daughter of the informant,



Pratibha Kumari both being employed Junior Engineers, it was some sort of an agreed marriage and when the family members of the informant had done all the needful by way of arranging a lavish function for the engagement incurring huge amount by way of expenditure and also payment in cash, the last minute turn around of the petitioners of Criminal Miscellaneous No. 46748 of 2014, has not only lowered the image and prestige of the whole family including Pratibha Kumari, the unmarried daughter of the informant but has also put her life at stake.

5. Learned counsel for the informant also submits that there are also evidence to show that the amount of cash as also in kind given to the petitioners of Criminal Miscellaneous No. 46748 of 2014, involving a sum of more than Rs. 3 lacs was also refused to be returned by the petitioners of Cr. Misc. No. 46748/2014 even after the breaking of the engagement of Pratibha Kumari the daughter of the



informant with the petitioner no. 3, Anuj Kumar (Criminal Miscellaneous No. 46748 of 2014) who had been married to some other girl. It has also been reiterated that Pratibha Kumari has not been married as yet and the informant also could not bear such loss of his face in society and humiliation of his daughter and had died out of shock and brain haemorrhage.

6. This court firstly would find that so far the allegation against Lalita Kumari and Bharat Kumar is concerned they may not be strictly made liable even if they had introduced the informant with the family of the petitioners of Criminal Miscellaneous No. 46748 of 2014, because negotiations generally are held with help and support of the friends and acquaintances. As a matter of fact, when the proposal of marriage of Anuj Kumar with Pratibha Kumari had gone to the extent at full fledged function of engagement, this Court would not find any criminality on the part of the petitioners Lalita Kumari and Bharat Kumar(Criminal

Miscellaneous No. 46644 of 2014), and therefore, this Court would find both of them, who also have no criminal antecedent for being granted the privilege of anticipatory bail.

7. That being so, if the petitioners, namely, **Lalita Kumari and Bharat Kumar**, surrender within a period of four weeks from today, they would be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of **Sub Divisional Judicial Magistrate, Daudnagar, Aurangabad** in connection with **Haspura P.S. Case No. 50 of 2014**, subject to the conditions laid down under Section- 438 (2) Cr. P.C and also subject to the following conditions:-

(i) That both the bailors will be close relative of the petitioners who will give an affidavit giving genealogy as to how they are related with the petitioners. The bailors will also undertake to inform the Court if there is any change in the address of the petitioners.

(ii) That the bailors shall also state on



affidavit that they will inform the Court concerned if the petitioners are implicated in any other case of similar nature after their release in the present case and thereafter the Court below will be at liberty to initiate the proceeding for cancellation of their bail on the ground of misuse.

(iii) That the petitioners will give an undertaking that they will receive the police papers on the given date and be present on the date fixed for charge and if they fail to do so on two given dates and delays the trial in any manner, their bail will be liable to be cancelled for reasons of misuse.

(iv) That the petitioners will be well represented on each and every date of trial and if they fail to do so on two consecutive dates, their bail will be liable to be cancelled on this ground alone.

8. The case of the petitioners in Criminal Miscellaneous No. 46748 of 2014 are facing prosecution for the offences punishable under Sections-420, 406/34 of the Indian Penal Code, however, is on entirely different footing inasmuch as the fate and future of an unmarried girl namely Pratibha Kumari has



been put at stake. Admittedly, even the petitioners accept the story of engagement and in fact that also cannot be denied in view of number of photographs produced before this Court by learned counsel for the informant. The question therefore would be that if there was entrustment of cash and kind by way of gift for the engagement of petitioner no. 3 Anuj Kumar with the daughter of the informant namely Pratibha Kumari and the marriage for any reason could not be solemnized, the petitioners ought to have been apologetic and they should have at least returned those gifts, both in cash and kind, specially when the petitioner no. 3, Anuj Kumar, admittedly has been married with some other girl.

9. In this regard it has to be also kept in mind that this Court had made an effort to get the matter settled by mediation but the mediator's report dated 20.07.2015 on record would go to show that even in course of such mediation, the petitioners did not agree

to the proposal of the family members of the informant to at least return the amount of cash and kind received by them at the time of engagement.

10. This Court can also not ignore the submission of learned counsel for the informant that after humiliation faced by the informant regarding the marriage of his daughter, he could not sustain the shock and had succumbed to death caused due to his brain haemorrhage.

11. In that view of the matter, this Court would not find the petitioners of this case to be entitled for privilege of anticipatory bail.

12. That being so, the prayer for anticipatory bail of the petitioners is hereby rejected.

13. The petitioners are directed to surrender within a period of four weeks from today and make a prayer for grant of regular bail which shall be considered on its own merit without being prejudiced by any thing said in this order and on the attitude of the



petitioners in returning the amount spent by the family of the informant in the engagement.

14. With the aforementioned observation and direction, these two applications are disposed of.

(Mihir Kumar Jha, J)

