

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41778 of 2014

Arising Out of PS.Case No. -1339 Year- 2013 Thana -MADHEPURA COMPALINT CASE
District- MADHEPURA

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1. Rajesh Ranjan S/o Late Bhupendra Yadav
2. Bhupendra Yadav S/o Late Sunar Yadav
Both R/o Village- Ghopa, P.S.- Ghailad (O.P. Parmanandpur), District-
Madhepura

.... Petitioner/s

Versus

1. The State of Bihar
2. Usha Devi W/o Rajesh Ranjan, D/o Laxmi Yadav At Present R/o
Village- Salkhua, P.S.- Salkhua, District- Saharsa

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shiva Shankar Sharma, Advocate

For the Opposite Party/s : Mr. Kumar Virendra Narayan (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

9 22-09-2015 Heard learned counsel for the petitioners and the
State.

The petitioner no.1 being the husband of the complainant and petitioner no. 2 being the father of petitioner no. 1 are apprehending their arrest in a complaint case wherein which processes have been directed to be issued after cognizance being taken for the offences punishable under Section 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

Basic accusation is of torture for non fulfillment of dowry demand.

It appears that on the basis of the submission of learned counsel for the petitioner that complainant developed illicit relationship with one Satyendra Yadav @ Nunu Yadav, the conversation between them have been recorded in a C.D. and the baby girl was born out of the said illicit relationship, a Co-ordinate Bench of this Court directed for transmission of C.D. and blood sample to Forensic Science Laboratory for voice matching of complainant to that of the voice recorded in C.D. and for D.N.A. matching of the baby girl with the petitioner and complainant. The reports of the F.S.L. suggest that the voice of the complainant found similar to the voice recorded in the C.D. whereas the D.N.A. report reflects that the D.N.A. of the alleged baby girl matches with the petitioner no. 1 and the complainant.

It is submitted by the learned counsel for the petitioner that the F.S.L. report suggests voice sample of complainant found similar to the voice of the complainant and her paramour recorded in the C.D. The petitioner filed Matrimonial Suit No. 118 of 2013 for divorce due to illicit relationship of complainant with her paramour.

The learned counsel for the complainant submits that the veracity of the content of C.D. will be tested during trial. The petitioner by levelling wild allegation has tarnished

the image of the complainant in the society. The wild accusation of giving birth of a child with cohabitation with paramour itself is an act of tremendous torture. The complaint case was filed on 22.11.2013 and thereafter matrimonial suit with wild allegation was filed on 26.11.2013.

Considering the thrust of accusation against petitioner no. 1, the husband of the complainant and the nature of allegation levelled by him (namely Rajesh Ranjan) against his wife, the complainant, this Court is not inclined to grant anticipatory bail to him as subjecting the wife and the minor child to D.N.A. matching test on mere suspicion, itself amount to inflicting torture.

Hence the prayer for anticipatory bail of petitioner no. 1 namely Rajesh Ranjan is hereby rejected.

So far as petitioner no. 2 namely Bhupendra Yadav, the father of the husband of the complainant is concerned, since the accusation is not specific against him, let the above named petitioner no. 2 be released on bail in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Madhepura in connection with Complaint Case No. 1339 of 2013, subject to conditions as laid down under Section 438(2) of the Indian Penal Code.

Let, the F.S.L. report be sealed and returned to the
Office of the Director, Forensic Science Laboratory, Bihar,
Patna.

(Dinesh Kumar Singh, J)

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