

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23932 of 2014

Arising Out of PS.Case No. -41 Year- 2014 Thana -MEERGANJ District- GOPALGANJ

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1. Shashikant Tiwari @ Shashikant Kumar Tiwari, son of Sri Brij Kishore Tiwari, Resident of village - Machhagar Lachhiram, P.S. Hathuwa, District - Gopalganj at Present resident of village - Narainia, P.S. Mirganj, District - Gopalganj

.... Petitioner

Versus

1. The State of Bihar
2. Rita Devi, wife of Arun Kumar Tiwari, daughter of Dharmnath Ojha, At present (Mieka) resident of Lohijra, P.O. Lohijra, P.S. Sidhwalia, District - Gopalganj

.... Opposite Party/s

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with

Criminal Miscellaneous No.28717 of 2014

Arising Out of PS.Case No. -41 Year- 2014 Thana -MEERGANJ District- GOPALGANJ

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Arun Kumar Tiwari S/o Sri Brij Kishore Tiwari, Resident of village- Machhagar Lachhiram,P.S.- Hathua, District- Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar
2. Reeta Devi, Wife of Arun Kumar Tiwari, daughter of Dharmnath Ojha at resenent reside at (Mieka) village-Kohijra, P.O. Kohijra, P.S. Sidhwalia, District - Gopalganj

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.23932 of 2014)

For the Petitioner/s : Mr. Shambhu Sharan Singh

For the Opposite Party/s : Mr. Md.A.Haque Sahara(App)

(In Cr.Misc. No.28717 of 2014)

For the Petitioner/s : Mr. Shambhu Sharan Singh

For the Opposite Party/s : Mr. Sharda Kumari(App)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

9 08-01-2015 Both Criminal Miscellaneous arise out of the same Complaint Case No. 269 of 2014 and as such have been heard together and are being disposed of by this common order.

Heard learned counsel for the petitioners, learned counsel representing the State and learned counsel for Opposite Party No. 2.

The petitioners, apprehending their arrest in connection with Mirganj (Goplaganj) P.S. Case No. 41 of 2014 registered on the basis of a Complaint Case No. 269 of 2014 for the offences punishable under Sections 323, 324, 325, 326, 307, 406, 498(A), 389, 504 and 120B of the Indian Penal Code and 3/4 of the Dowry Prohibition Act, seek the privilege of pre-arrest bail.

Allegedly, the petitioner Arun Kumar Tiwari being the husband and the petitioner Shashikant Tiwari @ Shashikant Kumar Tiwari being Devar along with other co-accused due to non-fulfillment of demand of dowry assaulted her and threw from the roof top causing grievous injury and fracture and further did not inform her parents and brought her to their known Doctors and when the brother of the complainant came to know, he brought her to Patna and got her treated and they are demanding Bolero vehicle by way of dowry. They snatched all the Stridhan.

Submission is that the witnesses during investigation have not supported the allegation. As a matter of fact, the complainant fell down from the roof top and her treatment was done by the Doctor at the cost of the petitioners. The Nurse and the Doctor have also supported the version and as such, the

petitioners deserve sympathetic consideration to which the learned counsel for opposite party no. 2 and learned A.P.P. oppose.

In the facts and circumstances as stated, considering that the petitioner Arun Kumar Tiwari being the husband is responsible for the ill-treatment and as such, this Court is not persuaded to grant the privilege of pre-arrest bail to him and accordingly his prayer for pre-arrest bail is rejected. But considering that the petitioner Shashikant Tiwari @ Shashikant Kumar Tiwari is Devar and witnesses during investigation have not supported that she was thrown from the roof top and as such, the petitioner Shashikant Tiwari @ Shashikant Kumar Tiwari in case of his arrest or surrender within one month from the date of receipt/production shall be released on bail on execution of bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Gopalganj in connection with Mirganj (Gopalganj) P.S. Case No. 41/2014, subject to the conditions as laid down under Section 438(2) Cr. P.C. However, in case and if so advised, the petitioner Arun Kumar Tiwari surrenders and seeks bail then his prayer for bail shall be considered on its own merit without being prejudiced by this order.

(Jitendra Mohan Sharma, J.)

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