

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36096 of 2014

Arising Out of PS.Case No. -72 Year- 2013 Thana -BANGAON District- SAHARSA

- =====
1. Lila Devi, wife of late Indushekhar Khan
 2. Baby Devi alias Bobby Devi, wife of Prabhu Kumar Khan alias Prabhu Khan,
 3. Prabhu Kumar Khan alias Prabhu Khan, son of late Indushekhar Khan
 4. Nand Kumar Khan, son of late Indushekhar Khan, all residents of village – Bangaon, P.S. – Bangaon, District – Saharsa.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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with

Criminal Miscellaneous No.40005 of 2014

Arising Out of PS.Case No. -72 Year- 2013 Thana -BANGAON District- SAHARSA

- =====
1. Subodh Khan @ Subodh Kumar Khan Son of Late Indushekhar Khan Resident of Village-Bangaon, P.S.-Bangaon, District-Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar
2. Binita Devi Wife of Subodh Khan @ Subodh Kumar Khan Daughter of Late Kali Kant Jha Resident of Village-Bangaon, P.S.-Bangaon, District-Saharsa, at present residing at Village AND P.O.-Mahisi, District-Saharsa.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.36096 of 2014)

For the Petitioner/s : Mr. Ashok Kumar Mishra

For the Opposite Party/s : Mr. Ashraf Ansari(App)

(In Cr.Misc. No.40005 of 2014)

For the Petitioner/s : Mr. Ashok Kumar Mishra

For the Opposite Party/s : Mr. Bharat Lal(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

3 30-03-2015 Heard learned counsels for the petitioners, informant and the State.

The petitioners being mother, brother, brother's wife

and husband of the informant are apprehending arrest in a case registered for the offences punishable under Sections 498A/34 of the Indian Penal Code.

The basic accusation is of torture. Marriage between the petitioner Subodh Khan alias Subodh Kumar Khan and the informant and birth of a male child are admitted.

On instructions, it is submitted that petitioner Subodh Khan is ready to keep the complainant as wife and child with full dignity and honour. The said fact was recorded by this court in order dated 4.3.2015.

It is submitted by learned counsel for the informant that the husband of the informant is mentally abraded person and as a result, major share of his property has been transferred in favour of other brothers whereas this fact has been denied by learned counsel for the petitioners.

Considering the present stand of the petitioner Subodh Khan alias Subodh Kumar Khan, let the above named petitioner of Cr. Misc. No. 40005 of 2014 be released on provisional anticipatory bail for one year in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of

learned CJM Saharsa in connection with Bangaon P.S. Case No. 72 of 2013 subject to the conditions as laid down under Section 438(2) Cr.P.C.

Let the learned court below issue notice to the informant and on her appearance the petitioner will take the informant to keep her as wife with full dignity and honour.

The provisional bail of the petitioner Subodh Khan will be confirmed by the learned court below in three eventualities – (i) if the matrimonial harmony is substantially restored or (ii) if the informant fails to appear before the learned court below or (iii) if the informant deliberately gets reluctant to reconcile the issue.

So far as petitioners of Cr. Misc. No. 36096 of 2014 are concerned, let them be released on provisional anticipatory bail for six months in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned CJM, Saharsa in connection with the aforementioned case subject to the conditions as laid down under Section 438(2) Cr.P.C.

The provisional bail of the petitioners of Cr. Misc. No. 36096 of 2014 will be confirmed by the learned court below only

when substantial proof is produced by the petitioners that the share of property of informant's husband has not been transferred.

(Dinesh Kumar Singh, J)

Anil/-

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