

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20227 of 2015

Arising Out of PS.Case No. -121 Year- 2014 Thana -MADHUBAN District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Sipahi Das S/o Nand Kumar Das
 2. Jamadar Das S/o Nand Kumar Das
 3. Pramila Devi W/o Jamadar Das
- All R/o Village - Doma Ghat, P.S. - Madhuban, District - East Champaran.

..... Petitioner/s
Versus
The State of Bihar.

..... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Shiva Shankar Sharma
For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 18-06-2015 Heard Sri Shiv Shankar Sharma, learned counsel for the
petitioners and Sri Damodar Prasad Tiwary, learned A.P.P.

Three petitioners, apprehending their arrest in
connection with Madhuban P.S. Case No. 121 of 2014 registered
for the offence under Section 304(B)/ 34 of the Indian Penal Code,
have prayed for grant of anticipatory bail.

Petitioner no. 1 and 2 are brother of the husband of the
deceased and petitioner no. 3 is the wife of petitioner no. 2.

At the very outset learned counsel for the petitioners
submits that only with a view to get Section 304(B) of the I.P.C.
applied in the present case the informant intentionally suppressed
the date of marriage of the deceased with the brother of petitioner

no. 1 and 2.

In this case earlier by order dated 30.4.2015 case diary was called for, which has been received and kept on record.

Learned counsel for the petitioners by way of referring to the statement made in paragraph no. 9 of the case diary submits that the statement of the brother of the deceased was recorded who in clear term has stated that marriage of his sister was solemnized in the year 2001. This fact was further corroborated by one of the independent witnesses namely Ramdeo Das in paragraph no. 11. He further submits that during investigation the statement of the son of the deceased was recorded by the Police in paragraph no. 14 and son in clear term has stated that his mother was done to death by his father. He further submits that prior to the present occurrence earlier informant of the present case had filed a case under Section 498(A) of the Indian Penal Code against her son- in- law i.e. brother of petitioner no. 1 and 2. In that case only allegation was made against the husband of the deceased not against any other family member of the petitioners. In view of the facts and circumstances particularly the fact that Section 304(B) of the I.P.C. is not applicable in the present case since the marriage was solemnized beyond 7 years from the date of occurrence, learned counsel for the petitioners submits that it is a

fit case for extending the privilege of anticipatory bail to the petitioners. Learned counsel for the petitioners further submits that husband of the deceased is already in custody.

Learned A.P.P. has vehemently opposed the prayer of the petitioners. He submits that in the F.I.R. itself the informant has made accused all the family members including the petitioners. He further submits that whatever material has been collected during investigation in the case diary can be looked into during the trial, not at the stage of hearing anticipatory bail petition.

Besides hearing learned counsel for the parties, I have also perused the materials available on record including the case diary which was summoned by this court earlier. On the basis of materials collected in the case diary it is evident that marriage was solemnized in the year 2001. Moreover, the statement of the son of the deceased was recorded in paragraph no. 14 of the case diary which corroborates that in the occurrence save and except the husband of the deceased, none was involved.

In view of the facts and circumstances particularly the statement of the brother of the deceased, the court is of the opinion that prima facie it is a fit case for extending the privilege of anticipatory bail. Accordingly, in the event of arrest or

surrender within a period of one month from today, aforesaid three petitioners namely, Sipahi Das, Jamadar Das and Pramila Devi shall be released on bail on furnishing bail bond of Rs. 10,000 /- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of Sri D. Kumar, Judicial Magistrate, Sikrahna at Motihari, East Champaran in connection with Madhuban P.S. Case No. 121 of 2014 in terms of the conditions as contemplated under Section 438(2) of the Cr.P.C.

It is made clear that whatever observation has been recorded by this court, that has been recorded only for the purposes of deciding the present anticipatory bail petition.

(Rakesh Kumar, J)

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