

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3311 of 2015

Arising Out of PS.Case No. -221 Year- 2012 Thana -NAUBATPUR District- PATNA

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1. Pashupati Upadhyay Son of Sri Vishwanath Upadhyay Resident of vill-
Faridpura,P.S-Naubatpur,Distt.-Patna

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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with

Criminal Miscellaneous No.6456 of 2015

Arising Out of PS.Case No. -221 Year- 2012 Thana -NAUBATPUR District- PATNA

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1. Vishwanath Upadhyay Son of late Alakh Upadhyay
2. Sabhapati Upadhyay@ Sabhapati Kumar son of Sri Vishwanath
Upadhyay Both resident of Village Faridpura, P.S. Naubatpur, Distt- Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.3311 of 2015)

For the Petitioner/s : Mr. Manoj Kumar Singh

For the Opposite Party/s : Mr. Dasrath Mehta (App)

(In Cr.Misc. No.6456 of 2015)

For the Petitioner/s : Mr. Manoj Kumar Singh

For the Opposite Party/s : Mr. H.A.Khan(App)

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**

ORAL ORDER

3 19-05-2015 Above noted both the applications have arisen out of

one occurrence i.e. Naubatpur P.S. Case No. 221 of 2012

registered for the offences punishable under Sections 498A,

364/34 of the Indian Penal Code and Sections 34 of the Dowry

Prohibition Act, as such, they have been heard together and are

being disposed of by this common order.

It has been submitted that during the pendency of these applications, petitioner no. 2 Sabhapati Upadhyay @ Sabhapati Kumar of Cr. Misc. No. 6456 of 2015 has been arrested and, as such, his prayer for pre-arrest bail has become infructuous and prayer for withdrawal of application on his behalf has been made.

Prayer is allowed. Accordingly, application of pre-arrest bail on behalf of petitioner no. 2 Sabhapati Upadhyay @ Sabhapati Kumar of Cr. Misc. No. 6456 of 2015 is dismissed as withdrawn.

Babita Kumari was married with petitioner Pashupati Upadhyay in the year 2006 but thereafter, due to non-fulfillment of demand of dowry she was being tortured and was made traceless. The informant apprehends that she had been done to death for the lust of dowry.

Submission is of false implication and that the daughter of the informant was having mobile and it has come that from that mobile talk was made on the mobile of Rajendra Baitha which is mentioned in paragraph 108 of the case diary and that Rajendra Baitha is living in Punjab and he has not been traced out. As a matter of fact, the daughter of the informant went away with

Rajendra Baitha and the petitioners have been made victim of circumstances to which the learned APP opposes by submitting that after investigation the allegation has been found to be true against the petitioners and the victim is still traceless.

In the facts and circumstances stated above, noticing that the victim is still traceless though the FIR has been lodged on 8.9.2012, as such, this Court is not persuaded to grant the privilege of pre-arrest bail to the petitioner Pashupati Upadhyay of Cr. Misc. No. 3311 of 2015, accordingly, his such prayer stands rejected.

So far as petitioner Vishwanath Upadhyay of Cr. Misc. No. 6456 of 2015 is concerned, he is the father-in-law, accordingly, he is directed to be released, in the event of his surrender or arrest within two months from the date of receipt/production of a copy of this order, on execution of bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Sri Umashankar, J. M. Ist Class, Danapur, Patna in connection with Naubatpur P.S. Case No. 221 of 2012, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Jitendra Mohan Sharma, J)

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