

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54386 of 2016

Arising Out of PS.Case No. -26 Year- 2016 Thana -MUSAHRI District- MUZAFFARPUR

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1. Rakesh Mahto Son of Kaushal Mahto
2. Mukesh Mahto Son of Kaushal Mahto
3. Kaushal Mahto Son of Ramchandra Mahto
4. Sunita Devi Wife of Kaushal Mahto
All residents of Village- Narauli Sen, P.S.- Mushahari, District-
Muzaffarpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Anis Akhtar

For the Opposite Party/s : Sri Bharat Lal

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 20-12-2016 Heard Mr. Md. Anis Akhtar, learned counsel for the

petitioners and Sri Bharat Lal, learned Additional Public

Prosecutor .

Four petitioners i.e. petitioner no. 1 and 2 /elder
brothers of the husband of the victim and petitioner no. 3 and 4/
father- in-law and mother -in -law respectively of the victim have
approached this court with a prayer to extend the privilege of
anticipatory bail in Mushahari P.S. Case No. 26 of 2016 registered
for the offence under Section 323, 498(A), 304(B) , 120(B), 201,
34 of the Indian Penal Code and Section 3 and 4 of the Dowry
Prohibition Act.



It was submitted by learned counsel for the petitioners that the present F.I.R. was lodged on the basis of Complaint Case which was filed vide Complaint Case No. 3192 of 2015 in the court of learned Chief Judicial Magistrate , Muzaffarpur. The case was subsequently directed to be registered and investigated under the provisions of Section 156 (3) of the Cr.P.C. and as such, the present F.I.R. was lodged . Learned counsel for the petitioners has placed reliance on Annexure -2 to the petition i.e. photo copy of an F.I.R. vide Kurhani P.S. Case No. 91 of 2014 registered on 22.3.2014 for offences under Section 366 of the Indian Penal Code . He submits that in that case informant was non else but the same person who is informant in the preset case . The informant in Kurhani P.S. Case No. 91 of 2014 had alleged that his daughter i.e. wife of son of petitioner no. 3 and 4 had disappeared in the early hours. He submits that in the F.I.R. itself i.e. Annexure -2 it has been indicated that the victim was seen with elderly person at a railway station. It has been argued that subsequently the victim was recovered and her statement under Section 164 of the Cr.PC. was also recorded in which nothing was alleged against any of the petitioners. It has been argued that it appears that again the victim who right from the year 2014 was residing with her parent had disappeared with someone and false case has been



instituted against the petitioners. It has also been argued that even before the court below case diary was summoned and learned Additional Sessions Judge has noticed the statement of number of witnesses who had not supported the prosecution case but prayer for anticipatory bail was rejected only on the ground that investigation was still continuing .

Sri Bharat Lal, learned Additional Public Prosecutor has opposed the prayer on the ground that till date victim has not been recovered and it is a case under Section 304(B) and 201 of the Indian Penal Code.

Besides hearing , I have perused the material available on record . Primarily after noticing Annexure -2 to the present petition which is a copy of F.I.R. lodged by the father of the victim as well as the order of the learned Sessions Judge wherein he has indicated that he has examined statement of witnesses recorded in paragraph nos. 6, 7 , 15 , 16 of the case diary in which witnesses have not supported the case, the court is of the opinion that it is a fit case for extending the privilege of anticipatory bail at least till completion of investigation.

Accordingly in the event of arrest or surrender within a period of six weeks from today, let the aforesaid four petitioner Rakesh Mahto, Mukesh Mahto, Kaushal Mahto , Sunita Devi be



enlarged 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 A.C.J.M., Muzaffarpur , District -Muzaffarpur / concerned court in connection with Mushahari P.S. Case No. 26 of 2016 subject to the conditions as contemplated under Section 438(2) of the Code of Criminal Procedure 1973.

It is clarified that if during further investigation sufficient material is collected and petitioners are forwarded as accused and their name is included in column no. 11 of the charge sheet, their bail bond shall automatically stand cancelled, thereafter they will have to appear before the court below and make a prayer for regular bail.

(Rakesh Kumar, J)

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