

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6466 of 2016

Arising Out of PS.Case No. -494 Year- 2015 Thana -NAWADA District- NAWADA

Jai Prakash Mahto @ Jai Prakash Kumar, son of Mahendra Mahto Noniya
@Mahendra Prasad Mahto, resident of Village Loharpura, P.O. & P.S.
Kadirganj (Nawada), Sub Division & District Nawada(Bihar).

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

With

Criminal Miscellaneous No.45478 of 2016

Arising Out of PS.Case No. -494 Year- 2015 Thana -NAWADA District- NAWADA

1. Mahendra Prasad Mahto @ Mahendra Mahto Noniya , son of Late
Khemraj Mahto Noniya
2. Fulmanti Devi @ Fula Devi, wife of Mahendra Prasad Mahto @
Mahendra Mahto Noniya
Both resident of village-Loharpura, P.O. and P.S. Kadirganj
(Nawada), District-Nawada (Bihar)

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

Appearance :

(In Cr.Misc. No.6466 of 2016)

For the Petitioner/s : Mr. Lal Babu Singh

For the Opposite Party/s : Mr. Uday Pratap Singh(App)

(In Cr.Misc. No.45478 of 2016)

For the Petitioner/s : Mr. Lal Babu Singh

For the Opposite Party/s : Mr. A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

11 17-11-2016

Heard Mr. Alamdar Hussain, learned counsel, who
was assisted by Sri Lal Babu Singh, learned counsel for the
petitioner(s), Sri Uday Pratap Singh, learned Addl. Public
Prosecutor and Sri Manish Kumar no.2, who has voluntarily

appeared on behalf of the informant.

In both petitions, petitioners are F.I.R. named accused in Nagar (Kadirganj) P.S. Case no.494/2015 registered for the offence under Sections 323/341/498(A)/304(B)/120B/34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act and, as such, both petitions were heard together and are being disposed of by common order.

Petitioners in both cases have approached this Court for grant of bail, in the event of their arrest or surrender. In the first case i.e. Cr.Misc.No. 6466 of 2016, the petitioner is husband of the deceased and in the second case i.e. Cr.Misc.No. 45478 of 2016, petitioners are father-in-law and mother-in-law of the deceased.

Mr. Hussain, learned counsel for the petitioners, while pressing the petitions for grant of anticipatory bail, submits that petitioners are entitled to be extended the privilege of anticipatory bail, mainly on the ground that in the present case F.I.R. was lodged belatedly, that too on the basis of complaint petition filed by the informant. He submits that the death had occurred on 15.06.2015, whereas the complaint petition was filed on 26.06.2016. He has argued that the informant side had participated in the cremation and after completion of shradh, in a



designed manner, the present complaint petition was filed showing complicity of all the accused persons. He submits that in any event, the father-in-law and mother-in-law are at least required to be extended the privilege of anticipatory bail. He has also argued that initially an U.D. case was registered, for which earlier a Bench of this Court had directed the Superintendent of Police to file an affidavit and in compliance thereof an affidavit has been filed. On the aforesaid ground, a prayer has been made for extending the privilege of anticipatory bail to the petitioners.

Learned Addl. Public Prosecutor and learned counsel for the informant have vehemently opposed the prayer for grant of anticipatory bail.

Besides hearing learned counsel for the parties, I have also perused the materials on record. Fact remains that all the petitioners are named accused in the F.I.R. in a case relating to offence under Section 304 (B) and other allied Sections of the Indian Penal Code. It is also not in dispute that the marriage of the deceased was solemnized with the petitioner (in the first case) in the year 2011 and within four years from the date of marriage, her death has occurred, which was not a natural death, rather it was case of death by hanging. Once within seven years of marriage, a married lady died, onus always lies on the accused persons to

prove that it was a natural death. Admittedly, in this case, it was not a natural death and, as such, keeping in view the fact that the petitioners are named accused in the F.I.R., there is no reason to extend the privilege of anticipatory bail.

Both the aforesaid petitions stand dismissed.

(Rakesh Kumar, J)

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