

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2106 of 2016

Arising Out of PS.Case No. -891 Year- 2015 Thana -SAHARSA District- SAHARSA

1. Rajesh Kumar S/o Late Rajkumar Ram @ Raj Kumar, Resident of village- Gandhi Path, P.S.- Saharsa, District- Saharsa

.... Petitioner/s

Versus

1. The State of Bihar
2. Shiv Shankar Das S/o Late Palakdhari Das, Resident of village- Indra Nagar Dhankheta Gogri, P.S. Gogri, District- Khagaria
3. Kalpana Kumari, W/o Rajesh Kumar @ Rajesh Kumar Ram, resident of village- Gandhipath, Ward No. 8, P.S.- Saharsa, District- Saharsa, presently D/o Shiv Shankar Das, resident of village- Indira Nagar Dhankheta Gogri, P.S.- Gogri, District- Khagaria

.... Opposite Party/s

with

Criminal Miscellaneous No.1657 of 2016

Arising Out of PS.Case No. -891 Year- 2015 Thana -SAHARSA District- SAHARSA

1. Amit Kumar Son of late Raj Kumar Ram@Rajkumar Resident of Village-Gandhipath,P.s Saharsa, District Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Shiv Shankar Das S/o late Palakdhari Das Resident of Village-Indranagar Dhankhita,gogri,P.s Gogri, District Khagaria.
3. Kalpana Kumari, W/o Rajesh Kumar @ Rajesh Kumar Ram, resident of village- Gandhipath, Ward No. 8, P.S.- Saharsa, District- Saharsa, presently D/o Shiv Shankar Das, resident of village- Indira Nagar Dhankheta Gogri, P.S.- Gogri, District- Khagaria

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.2106 of 2016)

For the Petitioner/s : Mr. Pawan Kumar, Advocate

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

(In Cr.Misc. No.1657 of 2016)

For the Petitioner/s : Mr. Pawan Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

4 12-05-2016

Heard learned counsel for the petitioners and learned APP for the State.

Petitioner Rajesh Kumar being the husband of the daughter of the informant and petitioner Amit Kumar is brother of Rajesh Kumar are apprehending their arrest in a case registered for the offences punishable under Sections 341, 323, 504, 498A, 307/34 of the Indian Penal Code.

The basic accusation is of torture. It is also alleged that petitioners made assault to the daughter of the informant.

It is submitted by the learned counsel for the petitioners that informant has filed Complaint Case No. 444 of 2015 levelling accusation for demand of dowry against the dead father of the petitioners. Petitioner Rajesh Kumar filed Matrimonial Case No. 29 of 2015 for restitution of conjugal rights and still ready to keep the daughter of the informant as wife with due dignity and honour.

The petitioners and daughter of the informant are present in the Court.

It is submitted by the learned counsel for the petitioners that petitioner Rajesh Kumar is still ready to keep the daughter of the informant as wife with due dignity and honour. Statement to that effect has been made in para-11 of the petition which reads as follows:-

“That the petitioner is ready to settle the dispute and he is ready to live with the daughter of the informant.”



Learned counsel for the informant submits that daughter of the informant is ready to accept the offer of the petitioner Rajesh Kumar, but she is apprehensive due to his past conduct and petitioner Rajesh Kumar is not delivering the educational certificate of the daughter of the informant which is kept by him, as a result she is unable to get any employment.

Counsel for the petitioner submits that education certificates have been lying with him and is ready to give it to her within one week of resuming the conjugal rights.

Learned counsel for the informant submits that the daughter of the informant is ready to accept the offer of the petitioner.

Both the petitioner and informant agree to appear before the learned court below on 28th of June, 2016 when the petitioner Rajesh Kumar will take the daughter of the informant to keep her as wife with full dignity and honour.

Considering the present stand of the parties, let the above named petitioner Rajesh Kumar be released on provisional anticipatory bail for nine months in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial

Magistrate, Saharsa in connection with Saharsa Sadar P.S. Case No. 891 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The provisional bail of the petitioner Rajesh Kumar will be confirmed within one year by the learned court below in three eventualities:- (i) on substantial restoration of the matrimonial harmony; (ii) or if the daughter of the informant gets reluctant to reconcile the issue; and (iii) or if the daughter of the informant fails to appear before the learned court.

Considering the stand of petitioner Rajesh Kumar and his wife, let the petitioner Amit Kumar be released on bail in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Saharsa in connection with Saharsa Sadar P.S. Case No. 891 of 2015, subject to conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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