

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5773 of 2016

Arising Out of PS.Case No. -61 Year- 2015 Thana -MAHILA P.S. District- SAHARSA

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1. Md. Jabbar S/o Late Hanif,
 2. Hanif Khatoon, W/o Md. Jabbar,
 3. Md. Saddam, S/o Md. Jabbar,
 4. Md. Parwej, S/o Md. Jabbar, All resident of village - Murli Fakira Tola (Banma Ithari O.P.), P.S. - Salkhua, District - Saharsa.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Shiva Shankar Sharma, Advocate
For the Opposite Party : Mr. Nityanand, APP

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 28-03-2016 Heard learned counsel for the petitioners, counsel for the Informant and learned counsel for the State.

The petitioners are apprehending their arrest in connection with Saharsa Mahila P.S. Case No. 61 of 2015 pending in the Court of Judicial Magistrate, Ist Class, Saharsa for the offences instituted under Sections 341, 323, 376, 504 and 506/34 of the Indian Penal Code.

As per the prosecution case of the informant in short is that petitioner Md. Parwej had come to the house of the informant and assured her to marry and then he made physical relationship with her continuously for long time and thereafter she came to know that petitioner Md. Parwej has solemnized marriage with

another woman and further alleged that when she went to the house of petitioner Md. Parwej on 12.09.2015 then all the accused parsons assaulted her and also told her that in the event of payment of Rs.2 lacs as dowry they will accept her as bride and threatened her.

It has been submitted on behalf of the petitioners that the petitioners have got no criminal antecedent. As far as the petitioner nos.1,2 and 3 are concerned, there is no specific allegation against them. From perusal of the medical examination report of the victim, it appears that there is no conclusive finding in respect of rape committed upon her. The informant is being alleged to be of a questionable character. There is no evidence to show that, ever any assurance, was given by the petitioner no.4 to the informant in respect of marriage. Petitioner no.4 is a married person.

On behalf of the State and the counsel for the Informant, it has been submitted that the petitioners are named in the FIR and there is specific allegation against petitioner no.4, namely, Md. Parwej.

Considering the aforesaid facts and circumstances of the case, I am not inclined to release the petitioner no.4, namely, Md. Parwej on anticipatory bail, the same is rejected.

Anyhow, if the petitioner no.4, namely, Md. Parwej surrenders in the court below within a period of four weeks, the same shall be considered on its own merit without being prejudiced by this order.

As far as the petitioners no.1,2 and 3, namely, Md. Jabbar, Hina Khatoon and Md. Saddam are concerned, they be released on bail in the event of their arrest or surrender before the learned court below within a period of six weeks from today in connection with Saharsa Mahila P.S. Case No. 61 of 2015 on furnishing bail bond of Rs.10,000/-(Ten Thousand) each with two sureties of the like amount each to the satisfaction of the Shri Lalan Jee, Judicial Magistrate, Ist Class, Saharsa, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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