IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27502 of 2016

Arising Out of PS.Case No. -25 Year- 2016 Thana -MARKAHI District- KHAGARIA

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1. Sunita Devi Wife of Triveni Sah
2. Bibha Devi Wife of Arun Gupta@Arun Sah
3. Arun Gupta@Arun Sah Son of Triveni Sah All are Residents of Village- Rasaunk, PS Morkari, District Khagaria.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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With

Criminal Miscellaneous No.39047 of 2016

Arising Out of PS.Case No. -25 Year- 2016 Thana -MARKAHI District- KHAGARIA

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Barun Sah S/o. Late Triveni Gupta, resident of Village- Rasaunk, P.S. Morkahi, District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar
2. Nisha Kumari, W/o. Barun Sah, resident of Village- Rasaunk, P.S. Morkahi, District- Khagaria. at present D/o. Nepal Saw, resident of Village- Matihani, P.S. Mansi, District- Khagaria.

.... Opposite Party/s

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Appearance :
(In Cr.Misc. No.27502 of 2016)
For the Petitioner/s : Mr. Bishweshwar Ram
For the Opposite Party/s : Mr. J.N. Thakur, APP
(In Cr.Misc. No.39047 of 2016)
For the Petitioner/s : Mr. Bishweshwar Ram
For the Opposite Party/s : Mr. J.N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

06/ 21-12-2016 Heard learned counsels for the petitioners, State and the opposite party no. 2-informant.

The petitioner Barun Sah in Cr. Misc. No.

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39047 of 2016 being the husband of the informant and the petitioners in Cr. Misc. No. 27502 of 2016 being the mother, brother's wife and brother of the husband of the informant are apprehending their arrest in a case registered for the offences punishable under Sections 328, 307, 498A of the Indian Penal Code and 3/4 of Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of the dowry demand. It is also alleged that poison was administered through tea.

It is submitted by learned counsel for the petitioner that petitioner Barun Sah admits his marriage with the informant and accusation of administering poison through tea is omnibus and general against all the accused persons including the petitioner. For the occurrence of 20.02.2016, the FIR was lodged on 07.03.2016 and the delay of 17 days has not been explained. The medical report suggests only suspected case of poisoning was found, though the informant was treated with a complain of vomiting and lose motion. The petitioner Barun Sah is still ready to keep the informant as wife will dignity and honour. Statement to that effect has been made in paragraph 13 of Cr. Misc. No. 39047 of 2016, which reads as follows:-

"That the petitioner is still ready to keep her

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with full dignity and honour but she does not want to live with petitioner."

It is submitted by learned counsel for the petitioners of Cr. Misc. No. 27502 of 2016that the accusation against them is omnibus and general and thrust of accusation is against the husband of the informant.

It is submitted by learned counsel for the informant that the accusation is of administering poison. The informant is so apprehensive and hence, she is not ready to accept the offer of her husband to resume the conjugal life. Moreover, the accusation has been levelled against all the accused persons and the fard-beyan of the informant was recorded on the same day though it was registered on 07.03.2016.

It is submitted by Mr. J.N. Thakur, learned counsel for the State after going through the case diary that the medical report suggests the suspected case of poisoning.

Considering the fact that the thrust of accusation is against the husband of the informant and the medical report does not corroborate the specific case of poisoning, let the above named petitioners of Cr. Misc. No. 27502 of 2016 be released on anticipatory bail in the event of their arrest or

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surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bond of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Sub-divisional Judicial Magistrate, Khagaria in connection with Morkahi P.S. Case No. 25 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

So far petitioner Barun Sah is concerned, let the learned court below consider the prayer for bail, if he surrenders before the learned court below within a period of six weeks.

Accordingly, the application filed on behalf of petitioner Barun Sah is disposed of.

(Dinesh Kumar Singh, J.)

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