

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30179 of 2017

Arising Out of PS.Case No. -15 Year- 2016 Thana -BUDHUCHAK District- BHAGALPUR

- =====
1. Nirmal Yadav, son of Chhabbil Yadav
 2. Kalpana Devi, wife of Nirmal Yadav
- Both residents of Village-Gaughatta, Police Station- Budhuchak,
District-Bhagalpur

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar, Adv.

For the Opposite Party/s : Mr. Md. Arif, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 16-08-2017 Heard learned Counsel appearing on behalf of the

petitioners and learned APP for the State.

The petitioners being the elder brother and his wife of the husband of the daughter of the informant have renewed their prayer for anticipatory bail in connection with a case registered for the offences punishable under sections 498A, 436 and 304B/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

The basic accusation is of killing the daughter of the informant after one and half years of marriage for non-fulfillment of the dowry demand by causing burn injury, since the husband of the victim had illicit relationship with petitioner no.2, namely, Kalpana Devi, which was being protested by the victim.



Earlier bail application of the petitioners was disposed of vide order dated 03.10.2016, passed in Criminal Miscellaneous No. 34191 of 2016 with a direction to the learned Court below to consider the prayer for bail of the petitioners, if he surrenders before the learned Court below.

It is submitted by learned Counsel appearing on behalf of the petitioners that the petitioners could not surrender before the learned Court below, since petitioner no.2 was pregnant at the relevant time and petitioner no.1 was the only person to look after petitioner no.2. It is further submitted that main accused, the husband of the victim, namely Sudhir Yadav has been acquitted, vide Judgment dated 04.04.2017, passed by the 4th Additional Sessions Judge, Bhagalpur in Sessions Trial No.622 of 2016. It has been further submitted that the occurrence is of 26.04.2016 when the FIR being Budhuchak P.S. Case No.14 of 2016 was registered on 27.04.2016, but subsequently Budhuchak P.S. Case No.14 of 2016 was altered as Budhuchak P.S. Case No.15 of 2016 on 17.05.2016, though, the husband of the victim was arrested on 27.04.2016, but was produced before the learned Court below for remand on 30.04.2016 which clouds the whole prosecution case and this fact has also been noticed by the learned trial Court while recording the judgment of acquittal of the husband of the victim.



Learned Counsel for the State is not controverting the submission of learned Counsel for the petitioners that the husband of the victim has been acquitted.

It is further submitted that the petitioners will regularly appear before the learned Court below during trial.

Considering the fact that the husband of the victim has already been acquitted, let the above named petitioners be released on bail, on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhagalpur in connection with Budhuchak P.S. Case No.15 of 2016.

The learned trial Court will accept the bail bond of the petitioners on filing of an affidavit that they will regularly appear before the learned Court below and the trial Court will positively cancel the bail bond of the petitioners on default for two consecutive occasions.

(Dinesh Kumar Singh, J)

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