

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19369 of 2017

Arising Out of PS.Case No. -139 Year- 2014 Thana -AMARPUR District- BANKA

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1. Arzoo Alia @ Rafat Jahan @ Arjoo @ Rafhat W/o Md. Helal

2. Khurshida Khatoon @ Bibi Khurshida Khatoon W/o Md. Jasim

Both residents of Mohalla -Shahganj Khilafat Nagar, P.S.- Habibpur, District Bhagalpur.

.... Petitioners

Versus

1. The State of Bihar.

2. Salma Khatoon D/o Late Md. Azeez, resident of Mirganj, P.S.- Begusarai, District - Begusarai, at present residing at National Seat Maker P.S.- Amarpur, District -Banka.

.... Opposite Parties

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Appearance :

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

For the Opposite Party/s : Mr. Ramchandra Sahni, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 05-12-2017

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

2. This application under Section 482 of the Code of Criminal Procedure (for short 'Cr. P.C.') has been filed by the petitioners for quashing the order dated 24.07.2015 passed by the learned Chief Judicial Magistrate, Banka in Amarpur P.S. Case No.139 of 2014 by which he has rejected the prayer of the



petitioners to extend the provisional bail granted to them and their bail bonds have been cancelled.

3. The first information report was registered for the offences punishable under Sections 341, 323, 498A and 406 of the Indian Penal Code against the husband of the informant and six others including the petitioners, who are sisters-in-law (*gotni* and married *nanad*) respectively of the informant. They moved for grant of anticipatory bail before the learned Sessions Judge, Bhagalpur, which was allowed provisionally for a period of six months, vide order dated 04.06.2014 passed in A.B.P. No.1150 of 2014 with condition that after release on bail the husband of the informant Md. Nehal shall bring the informant to his house and start leading matrimonial life peacefully with the informant.

4. Subsequently, on expiry of the period of six months, the learned Chief Judicial Magistrate, Banka, rejected the petitioners' prayer for conforming or extending their provisional bail, vide order dated 24.07.2015, which is under challenge in the present case.

5. It is submitted by the learned counsel for the petitioners that the implication of the petitioners in the case was merely because they happen to be relatives of the husband of the informant. He submitted that the informant has resolved her dispute



amicably with her husband, which fact would be evident from the order dated 05.10.2015 passed by the learned Sessions Judge, Banka in B.P. No.492 of 2015 and, in that view of the matter, it would not be proper to send the petitioners to jail in the case.

6. *Per contra*, learned counsel for the State submitted that since the Sessions Court had granted provisional bail to the petitioners with condition that Md. Nehal, the husband of the informant, shall settle the dispute with the informant and keep her peacefully in her matrimonial home. As the said condition was not fulfilled, the learned Chief Judicial Magistrate, Banka rightly rejected the prayer of the petitioners for extension of the provisional bail. He submitted that in view of the changed circumstances, the petitioners may surrender and seek regular bail.

7. I have heard learned counsel for the parties and perused the record.

8. It would be evident from the order dated 05.10.2015 passed by the learned Sessions Judge, Banka in B.P. No.492 of 2015 that the husband of the informant of the case was granted bail as the informant herself had appeared before the court and conceded that one time settlement has been made between the parties and now she has no grievance against the petitioners. The relevant part of the aforesaid order dated 05.10.2015 reads as under:-



“The learned P.P. assisted by the learned counsel appearing on behalf of the complainant have conceded to the submissions made on behalf of the petitioner and have agreed that one time settlement has been made in between the parties, which has been agreed by each other and now there remains no grievance against the petitioner. The informant is also present, who has also admitted the factum of divorce given to her by her husband-petitioner and she has also admitted, the fact that divorce has been accepted by her also”.

9. Having regard to the fact that there has been amicable settlement by the informant with her husband and she has decided to part ways and, on the basis of one time settlement between the parties, she has no grievance against her husband, I am of the opinion that no useful purpose would be served by sending the petitioners to jail.

10. In that view of the matter, even though the learned Chief Judicial Magistrate may be technically right in cancelling the bail bonds of the petitioners vide order dated 24.07.2015, in order to secure the ends of justice, the petitioners are directed to be released on bail on furnishing bail bonds of Rs.5,000/- (rupees five thousand) with two sureties of the like amount each to



the satisfaction of the learned Chief Judicial Magistrate, Banka in connection with Amarpur P.S. Case No.139 of 2014 in case they appear before the court on or before 22nd of December, 2017.

11. The application stands allowed to the extent indicated above.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.12.2017
Transmission Date	14.12.2017

