

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3439 of 2016

Arising Out of PS.Case No. -118 Year- 2013 Thana -PAKARIBARAW District- NAWADA

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1. Mahesh Yadav Son of Mathura Yadav, Resident of village- Geeta Bandh,
P.S.- Chandradeep, District- Jamui

2. Bhushan Yadav

3. Bharat Yadav Both are son of Jhagru Yadav, Resident of village-
Rajebigha, P.S.- Pakribrawan, District- Nawada

.... Petitioner/s

Versus

1. The State of Bihar

2. Malo Devi, Daughter of Dakan Yadav, Wife of Bharat Yadav, Resident
of village- Rajebigha, P.S.- Pakribrawan, District- Nawada

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad

For the Opposite Party/s : Mr. Shailendra Kumar-I(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 10-04-2017 Heard learned counsels for the petitioner and the State.

The petitioner no.3 being the husband of the informant
and petitioner nos. 1 and 2 being the brother and relative of
petitioner no.3 are apprehending arrest in a case registered for the
offences punishable under Sections 498A, 494 and 323/34 of the
Indian Penal Code.

The accusation is of torture for non-fulfillment of the
dowry demand and performing second marriage by the petitioner
no.3.

This Court vide order dated 21.01.2016 issued notice to
opposite party no.2. The office note dated 24.03.2017 reflected



that notice was received by opposite party no.2, but she refused to acknowledge the receipt, hence vide order dated 27.03.2017, notices issued to opposite party no.2 were deemed to be validly served. Today also, none is appearing on behalf of opposite party no.2.

It is submitted by the learned counsel for the petitioner that the petitioner no.3 admits his marriage with the informant Malo Devi about 20 years prior to the lodging of the present case and birth of a female child. Though, the petitioner no.3 also admits to have performed second marriage, but he is still ready to keep the informant as wife with full dignity and honour. Statement to that effect has been made in para 8 of the petition which reads as follows:-

“That it is submitted that the husband of the informant want to keep with full dignity and honour,”

It is further submitted that the thrust of accusation is against petitioner no.3 who is the husband of the informant. The accusation against petitioner nos. 1 and 2, who are the brother and relative of petitioner no.3, is omnibus and general.

Learned counsel for the State submits that on finding prima facie case, the process has been directed to be issued.



Considering the fact that thrust of accusation is against petitioner no.3, being the husband of the informant and accusation against petitioner nos. 1 and 2 is omnibus and general, let the above named petitioner nos. 1 and 2 be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned C.J.M., Nawada in connection with Pakribrawan P.S. Case No. 118 of 2013, subject to the conditions as laid down under Section 438(2) Cr.P.C.

So far as petitioner no.3 is concerned, since the petitioner no.3 has admitted to have performed second marriage, this Court is not inclined to grant anticipatory bail to him. However, since the informant chose not to appear and controvert the contention of the petitioner, it is case for consideration of bail by the learned court below if the petitioner surrenders within a period of six weeks.

(Dinesh Kumar Singh, J)

Amrendra/-

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