

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51273 of 2017

Arising Out of PS.Case No. -164 Year- 2017 Thana -MITHANPURA District- MUZAFFARPUR
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1. Rashmi Rathi @ Rashmi Banka, wife of Amit Kumar Banka,
2. Amit Kumar Banka, son of Late Shiv Kumar Banka, resident of Mohalla-Shankar Nagar, Ramna, P.S.- Mithanpura, District- Muzaffarpur.
3. Anand Kumar Mishra @ Anand Mishra, son of Radhe Shyam Mishra, resident of Mohalla- Ayodhya Prasad Lane, Pandey Gali, Motijhil, P.S.-Sadar, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Manju Devi Banka, wife of Shiv Kumar Banka, resident of Mohalla-Shankar Nagar, Ramna, P.S.- Mithanpura, District- Muzaffarpur.

.... Opposite Party/s
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Appearance :

For the Petitioner/s : Mr. Radha Mohan Singh

For the Opposite Party/s : Mr. Sri Ganesh Prasad Singh
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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3 13-11-2017

Heard learned counsel for the petitioners and the State.

The petitioners apprehend arrest in Mithanpura P.S. Case No. 164 of 2017 instituted for the offence under Sections-323, 338, 313, 307/34 of the Indian Penal Code.

It is alleged in the complaint which was sent to concerned police station under Section 156 (3) of the Cr. P.C. that the informant is a widow lady and her son Amit Kumar Banka (petitioner No. 2) had taken different loans from traders during life time of her husband and to satisfy those loans, he on the date of occurrence along with his wife petitioner No. 1 with whom, petitioner No. 2 performed inter caste marriage misbehaved with the complainant and also assaulted the



complainant and her younger son as well as daughter in law who was pregnant on account of which, she was brought to hospital and by operation, she gave birth to a child but the child was declared dead after birth.

Counsel for the informant has appeared and filed counter affidavit. He has submitted that petitioner No. 2 who is son of the complainant has performed inter caste marriage with petitioner No. 1 and thereafter, both of them are harassing the complainant who is widow mother in various ways and on the date of occurrence, the daughter in law of the complainant gave birth to a child who was after birth declared dead.

In such circumstances, this court is not inclined to grant anticipatory bail to petitioner Nos. 1 & 2. Accordingly, prayer for anticipatory bail of petitioner Nos. 1 & 2 stands rejected.

The petitioner Nos. 1 & 2 are directed to surrender in the court below and seek regular bail which will be considered and disposed of on its own merit without being prejudiced by this order.

So far as petitioner No. 3 is concerned, he is said to be Samdhi of informant. There is no specific allegation of overt act against petitioner No. 3.

In such circumstances, prayer for anticipatory bail is allowed and it is ordered that the petitioner No. 3 named above in the event of his arrest or surrender in the court below within six weeks from the date of receipt/production of copy of this order, shall be



released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each in connection with in Mithanpura P.S. Case No. 164 of 2017 to the satisfaction of learned Sub Divisional Judicial Magistrate, East, Muzaffarpur subject to condition as laid down u/S 438(2) of the Cr.P.C. with further conditions (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioner No. 3 shall cooperate in the trial and shall be present on each and every date fixed by the court and absence on two consecutive dates without proper and reasonable reason, will automatically cancel bail bond of the petitioner No. 3 and (3) if petitioner No. 3 tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner No. 3.

(Sanjay Priya, J)

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