

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.15504 of 2018**

Arising Out of PS.Case No. -138 Year- 2017 Thana -SONBERSA District- SITAMARHI

- =====
1. Radha Devi @ Radhika Devi, wife of Nagendra Panjiar
  2. Manish Kumar Nigam, son of Nagendra Panjiar
- Both resident of village Araria, P.S. Kanahauli, Distt. Sitamarhi.
3. Gudiya Kumari @ Kiran Kumari, daughter of Nagendra Panjiar
  4. Tribhuwan Kumar Gupta @ Tribhuwan Gupa, son of Hare Krishan Gupta
- Both resident of village Chaksikandar, P.S. Bidupur, Distt. Vaishali Hajipur.

.... .... Petitioner/s

Versus

The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate.

For the Opposite Party/s : Mr. Lalan Kumar, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**  
**ORAL ORDER**

3      22-03-2018                      Heard learned counsel for the petitioners and the State.

The petitioners apprehend their arrest in **Sonbarsa P.S. Case No. 138 of 2017** instituted for the offence under Sections 341, 323, 504, 506, 406, 420/34 of the Indian Penal Code and Section 4 of Dowry Prohibition Act.

The allegation in the First Information Report is that the engagement for marriage of daughter of the complainant was fixed with accused No. 3 Ravish Kumar Nigam with consent of both parties, but accused persons refused to perform marriage for non-fulfillment of demand of Rs.7,00,000/- and a Glamour



Motorcycle.

Learned counsel for the petitioners has submitted that in fact wrong statement was given by the informant at the time of proposal of marriage that the girl is working as school teacher. Learned counsel for the petitioners has enclosed Annexure-2 from which it appears that appointment of daughter of the informant was cancelled.

Learned counsel for the informant has appeared and submitted that the instant anticipatory bail application is not maintainable because the police has given benefit of Section 41(a) of the Cr. P.C. to the petitioners.

Learned counsel for the informant has relied upon a Judgment of this Court reported in 2004(3) PLJR 491 (Mahendra Prasad Singh Vrs. State of Bihar). He also pointed out the order passed by a coordinate Bench of this Court vide order dated 4.3.2015 passed in Cr. Misc. 6229 of 2015.

This Court is of the view that granting of benefit under Section 41(a) of Cr. P.C. is not a police bail. It is just a bond executed by the petitioner to appear before the police during investigation.

Therefore, this anticipatory bail application is maintainable.



There is general and omnibus allegation against the petitioners in the written report.

Considering the facts and circumstances of the case, prayer for anticipatory bail of the petitioners is allowed. In the event of surrender/arrest of the petitioners, named above, within six weeks from today, in connection with **Sonbarsa P.S. Case No. 138 of 2017**, they shall be released on anticipatory 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, Sitamarhi**, subject to the conditions as laid down under Section 438 (2) Cr. P.C. with further conditions (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioners shall cooperate in the trial and shall be present on each and every date fixed by the court and their absence on two consecutive dates without proper and reasonable reason will be liable to cancel their bail bond and (3) if petitioners tamper 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 petitioners.

(Sanjay Priya, J)

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