

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.61123 of 2018

Arising Out of PS. Case No.-232 Year-2018 Thana- BANIAPUR District- Saran

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1. Nirmala Devi wife of Pappu Sharma @ Abhinash Sharma
Resident of Village- Manikpura, P.S. -Baniyapur, District- Saran.
 2. Sunita Devi @ Saroj Devi wife of Suraj Sharma @ Abhishek
Kumar Sharma, Resident of Village- Manikpura, P.S.- Baniyapur,
District- Saran.
 3. Suraj Sharma @ Abhishek Kumar Sharma son of Binod Sharma
Resident of Village- Manikpura, P.S.- Baniyapur, District- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vinay Mistry, Advocate
For the Opposite Party/s : Mr. Ram Sumiran Roy, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

3 13-12-2018 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

The petitioners seek pre-arrest bail in connection with
Baniyapur P.S. Case No.232 of 2018 registered under Sections
304B and 201/34 of the Indian Penal Code.

It is submitted that petitioner nos.1 and 2 are sisters-
in-law (Gotni) and petitioner no.3 is brother-in-law (Bhaisur) of
the deceased. A partition had already taken between husband of
the deceased and the petitioners four years ago and they are
living separately since then. Further contention is that marriage
was solemnized in the year 2013 and death of the wife of the co-
accused Bablu Sharma occurred in the year 2018, but no



previous allegation of physical or mental torture was made prior to institution of the first information report. It is also contended that in the first information report it is alleged that rupees one lac was demanded from the family members of the wife of the deceased for the purpose of business being set up by Bablu Sharma which would not constitute either an offence under Section 498 or Section 304B of the Indian Penal Code. In this regard reliance has been placed on the decision of the Supreme Court in the matter of **Vipin Jaiswal vs. State of A.P.** since reported in **2013(3) PLJR (SC) 91**.

Per contra, learned counsel for the State submitted that there is allegation that the victim was done to death in her matrimonial home after five years of her marriage and the petitioners were also responsible for the alleged act. He contended that merely because demand was made for the purpose of conducting business, it cannot be said that the offence would not come within the purview of either Section 498 or Section 304B of the Indian Penal Code.

Be that as it may, considering the relationship of the petitioner as also the other points urged on behalf of the petitioners, in the event of arrest or surrender before the court below within six weeks from today, the petitioners are directed



to be released on bail on furnishing bail bonds of Rs.10,000/-
(ten thousand) each with two sureties of the like amount each to
the satisfaction of learned Additional Chief Judicial Magistrate-
XI, Saran in connection with Baniyapur P.S. Case No.232 of
2018 subject to the conditions as laid down under Section
438(2) of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J)

Md. S./-

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