

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.68536 of 2018

Arising Out of PS. Case No.-76 Year-2016 Thana- ALOULI District- Khagaria

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1. Ashok Kumar @ Ashok Kumar Gupta @ Ashok Gupta S/o Late Ganeshi Gupta
 2. Rina Devi W/o Ashok Kumar @ Ashok Kumar Gupta
 3. Lucy Kumari D/o Ashok Kumar @ Ashok Kumar Gupta All are Resident of Village-Haripur,P.S. Allauli,Distt.-Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar
For the Opposite Party/s : Mr. Upendra Kumar

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL ORDER

2 13-12-2018 Heard learned counsel for the petitioners as well as learned Addl. Public Prosecutor for the State.

Petitioners apprehend their arrest in connection with Alauli P. S. case no. 76/2016 registered under sections 363 and 366 of the IPC.

Earlier petitioners were granted privilege of anticipatory bail by a co-ordinate bench of this court vide order dated 24.11.2016 passed in Cr. Misc. no. 37746/2016 with direction to surrender within four weeks from the aforesaid order but the petitioners failed to surrender before the court below within the above stated stipulated period. However, the petitioners filed Cr. Misc. no. 55544/2017 for extension of



period of surrender in the light of the order dated 24.11.2016 passed in Cr. Misc. no. 37746/2016 but a bench of this court rejected prayer for modification in order dated 24.11.2016 and directed the petitioners to surrender before the court below and pray for bail. However, instead of surrendering before the court below, petitioners chose to file anticipatory bail petition and accordingly, they filed ABA no. 787/2018 before the learned Sessions Judge, Khagaria which was rejected vide order dated 22.9.2018 and after that the petitioners preferred this criminal miscellaneous petition.

Learned counsel appearing for the petitioners submits that the victim has already solemnized her marriage with Satyam Kumar who happens to be son of the petitioner no.1 and petitioner no.2 and presently, victim is residing with Satyam Kumar. He also submits that statement of the victim was recorded under section 164 Cr.P.C and in the said statement, she also supported the aforesaid fact. He, further, submits that the informant has already filed compromise petition before the court below and moreover, police after investigation submitted final form showing mistake of fact but the learned court below differed with the finding and took cognizance of the offences.

He submits that the petitioners did not surrender before



the court below under impression that final form has been submitted against them and there is no need to surrender before the court below but after cognizance, petitioners apprehend their arrest in the aforesaid case.

Considering the aforesaid facts and circumstances as well as submissions of the parties, this anticipatory bail petition stands disposed of directing the petitioners to surrender before the court below within six weeks from today and if petitioners do so and seek regular bail, the concerned court shall pass appropriate order on bail prayer of the petitioners on the day of filing of bail petition keeping in mind the above stated facts, particularly, statement of the victim recorded under section 164 Cr.P.C as well as present status of the victim.

(Hemant Kumar Srivastava, J)

s.hassan/-

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