

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14944 of 2019

Arising Out of PS. Case No.-684 Year-2018 Thana- BARACHATTI District- Gaya

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1. MD. MAHBOOB ALAM Son of late Md. Taslim Resident of Village - Guriyawan Tola, Sagarpur, P.S.- Mohanpur, Distt.- Gaya.
 2. Sairoon Khatoon Wife of Md. Taslim Resident of Village - Guriyawan Tola, Sagarpur, P.S.- Mohanpur, Distt.- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Tabasum Khatoon D/o Md. Sultan, Resident of Village - Guriyawan Tola, Sagarpur, P.S.- Mohanpur, Distt.- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shailesh Kumar
For the Opposite Party/s	:	Mr. Raj Kishore Singh
For O.P. No. 2	:	Mr. Sanjay Kr. Sharma

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 17-07-2019 Heard learned counsels for the parties.

The petitioner no. 1 being the husband of the informant and petitioner no. 2 being the mother of petitioner no. 1 are apprehending arrest in a case registered for the offences punishable under sections 498A and 494/34 of the IPC.

The prosecution case as per the written report of Tabasum Khatoon submitted to the SHO, Barachatti on 17.10.2018 is to the effect that the informant was married with the petitioner no. 1 Md. Mahboob Alam about fourteen years prior to the lodging of the written report. Subsequently the married couple were blessed with three children but on the basis



of wrong accusation the informant was driven out from the matrimonial house, as a result she started residing at her parents house and subsequently when she went to in-laws' house, the mother-in-law conveyed that petitioner no. 1 has performed second marriage since the informant has deserted him. The informant, in spite of second marriage, expressed her willingness to reside with petitioner no. 1 but mother of petitioner no. 1 did not allow her to enter into the matrimonial house.

This Court, vide order dated 12.3.2019 issued notice to the informant O.P. No. 2 and in the meantime, directed for not taking any coercive step against the petitioners in Barachatti (Mohanpur) P.S. Case No. 684 of 2018.

It appears from the office note that O.P. No. 2 entered appearance through her counsel on 30.4.2019. The matter was adjourned vide order dated 1.5.2019 on the prayer of learned counsel for the O.P. No. 2 to 4.7.2019. Again vide order dated 10.7.2019, the matter was adjourned at the behest of learned counsel for the petitioner to 17.7.2019. When the matter was taken up, a certified copy of the order dated 13.6.2019 passed by the learned ACJM, Sherghati in Barachatti (Mohanpur) P.S. Case No. 684 of 2018 was produced. Let the same be kept on



record.

The said order stipulates that petitioner no. 1 was arrested on 11.6.2019 and was remanded to judicial custody since the order dated 12.3.2019 was not received before the learned Court below but when the learned Court below verified from the website of the High Court then the custody warrant dated 11.6.2019 was recalled, however, the bail application filed by petitioner no. 1 was rejected.

In view of this Court, once the petitioner no. 1 was remanded to judicial custody, the Court ought to have considered the prayer for bail, moreover, when the orders of this Court are uploaded on website of the High Court immediately on its pronouncement, there cannot be an excuse for the Court or the police officer that they are not aware about the order passed by this Court. This Court deprecates such attempt by the police officer and the learned Court below, knowingly or unknowingly, in overreaching the order of this Court.

It is submitted by learned counsel for the petitioners that petitioner no. 1 admits his marriage with the informant and birth of three children who are residing with the petitioner no. 1. It is further submitted that the informant maliciously got petitioner no. 1 arrested, still the petitioner no. 1 is ready to



reconcile the issue. So far as petitioner no. 2 is concerned, she is an old lady and the accusation of assault is not being corroborated by any medical opinion.

Learned counsel for the State and learned counsel for the informant submit that thrust of accusation is against petitioner no. 1 who is the husband of the informant and on conclusion of investigation, charge sheet has been submitted against the petitioners.

Considering the fact that the petitioner no. 1 once remanded to judicial custody under the order of the Court though subsequently, in view of the interim order of this Court, custody warrant has been recalled and he has been released, this anticipatory bail application so far as petitioner no. 1 is concerned, has become infructuous.

However, keeping in view the nature of accusation and the stand of petitioner no. 1 that he is still ready to reconcile the issue, coupled with the fact that he has been released by a judicial order of the learned Court below, this Court permits petitioner no. 1 to execute bail bond of Rs.10000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned SDJM, Sherghati, Gaya in



connection with the aforementioned case.

So far as petitioner no. 2 is concerned, keeping in view the fact that she is an old lady and the accusation of assault is not being corroborated by any medical opinion, let petitioner no. 2 above named be released on anticipatory bail in the event of arrest or surrender within six weeks on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned SDJM, Sherghati in connection with Barachatti (Mohanpur) P.S. Case No. 684 of 2018 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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