

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40425 of 2019**

Arising Out of PS. Case No.-33 Year-2019 Thana- BHORE District-
Gopalganj

- =====
1. SUBASH TIWARI, aged about 67 years, male, Son of Late Bishudev Tiwari Resident of Village- Chharauchha, P.S.- Khampar, District- Deoria (Uttar Pradesh).
 2. Prema Tiwari @ Prema Devi , aged about 65 years, female, Wife of Subash Tiwari Resident of Village- Chharauchha, P.S.- Khampar, District- Deoria (Uttar Pradesh).
 3. Balmiki Tiwari, aged about 30 years, male, Son of Subash Tiwari Resident of Village- Chharauchha, P.S.- Khampar, District- Deoria (Uttar Pradesh).

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioners : Mr. Naresh Prasad, Advocate.
For the Informant : Mr. Sanjay Kumar Pandey No. 5, Adv.
For the State : Mr. R.P. Nat, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 12-07-2019 Learned counsel for the petitioners states that the petitioner no. 1 has been arrested and as such the anticipatory bail petition has become infructuous and seeks permission to withdraw the same.

2. Permission is accorded. The anticipatory bail petition of petitioner no.1 stands dismissed as withdrawn.

3. Heard learned counsel for the petitioners and learned APP for the State.

4. The petitioner nos. 2 and 3 apprehend their arrest for the offences alleged under Sections 302, 120(B) and 498(A) of the Indian Penal Code registered in connection with Bhore P.S. Case No. 33 of 2019.



5. It is submitted that the petitioner nos. 2 and 3 have been falsely implicated and the accusation for demand of dowry in the backdrop of marriage of the deceased having solemnized more than two decades ago is highly improbable and doubtful. As a matter of fact after death of the deceased, the informant as well as Alok Pandey one of the witnesses to the complaint, participated in the last rites at Morbi, Gujarat on 05.01.2019 as evident from the certificate (Annexure-3). Thereafter the present complaint has been filed as an afterthought and after considerable delay on 24.01.2019. It is further submitted that the thrust of accusation sprinkling kerosene oil and setting the deceased on fire is on her husband Arvind Tiwari who had also participated in the funeral rites. Statement is made at the Bar that the aforesaid co-accused Arvind Tiwari has since surrendered before the learned Court below. The petitioner no. 2, mother-in-law of the deceased is a lady of about 65 years of age while petitioner no. 2, brother-in-law of the deceased is aged about 30 years of age, both of whom claim clean antecedents.

6. Learned APP assisted by learned counsel for the informant/complainant appears and has been heard. Learned counsel for the complainant/informant states that petitioner no. 3 has attempted to kidnap the 12 years old son of the deceased who is a witness in the case and in respect of which Bhorey P.S. Case No. 198 of 2019 has been lodged and the matter is under investigation.

7. Be that as it may, in the event of the arrest or surrender by petitioner nos. 2 and 3 before the court below within six weeks from the date of communication of this order, let the above named petitioner nos. 2 and 3 be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Gopalganj in connection with Bhore P.S. Case



No. 33 of 2019, subject to the conditions as laid down under Section 438 (2) Cr.P.C., and also subject to the following further conditions and in particular the petitioners shall not tamper with witness -

(i) That one of the bailors of each of the petitioners shall be their close relatives other than the petitioner nos. 2 and 3.

(ii) That the petitioner nos. 2 and 3 shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner nos. 2 and 3 shall cooperate with the investigation, if not already concluded, and make themselves available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(iv) That the petitioner nos. 2 and 3 shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, their bail bonds shall be liable to be cancelled by the learned Court concerned.

(Vikash Jain, J)

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