

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43170 of 2019**

Arising Out of PS. Case No.-156 Year-2019 Thana- GAYA KOTWALI District- Gaya

1. SALEHA @ SALEHA KHATUN @ SHALEHA Wife of Late Md. Altaf Hussain @ Mahboob Alam Resident of Village - Faruki Zama Masjid, P.S.- Kotwali, Distt - Gaya.
2. Nausahiba @ Najia Tabasum Wife of Belal Faruki, D/o Late Mahboob Alam Resident of Village - Faruki Zama Masjid, P.S.- Kotwali, Distt - Gaya.
3. Arsi @ Arsi Khatoon @ Arti Wife of Tamana, D/o Late Mahboob Alam @ Late Altaf Hussain Resident of Village - Faruki Zama Masjid, P.S.- Kotwali, Distt - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mahendra Prasad Bhartee, Adv
For the Opposite Party/s : Mr.Surendra Prasad Singh, APP

**CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER**

5 11-12-2019 Heard learned counsel for the petitioners as well as
learned APP.

Brother of the victim filed a written report disclosing therein that his sister, Farzana Bano had been married with Aftab Alam @ Rinku on 02.04.2017. While she was residing at her Sasural, all the accused persons began to demand Rs. 50,000/- and for that, she was subjected to frequent physical as well as mental torture. Because of the fact that he was not in a position to fulfill the demand, Farzana continued to bear the pains. About a month ago, his brother-in-law, Aftab Alam as well as his sister came at his place and during course of their



stay, he elaborately detailed with regard to his condition and requested not to torture her. He further assured that he will fulfill the demand as soon as his financial condition gets improved. Then thereafter, his brother-in-law returned back accompanying his sister. Since thereafter, he made repeated attempt to talk with his sister but, in vain. Whereupon, on 30.03.2019, he came to Sasural of his sister, inquired about Farzana. All the accused persons began to say “*where is Farzana, Farzana is not here, they are not knowing about Farzana*”. So he apprehended that she might have been murdered and her dead body might have been disposed of at the end of the accused persons as, he failed to fulfill their demand.

Learned counsel for the petitioners has submitted that it happens to be a case of no evidence. It has also been submitted that aforesaid Farzana ran away from her Sasural in the dead of the night and for that, an information was given to the police. It has further been stated that petitioner no.2 is the married sister and resides at her Sasural while petitioner no. 1 is mother-in-law and petitioner no.3 is younger Gotni, separate in mess and business. It has further been submitted that with regard to disappearance of the victim, news was published in Dainik Jaagran, Annexure-2 is the photo copy of the aforesaid



news cutting. So submitted that in the facts and circumstances of the case, petitioners should be released on anticipatory bail. Also submitted that one co-accused, Tamanna has been granted anticipatory bail vide Cr. Misc. No. 55368/2019 on 20.11.2019.

Learned APP opposed the prayer for bail.

The dark side of the instant case happens to be that the prosecution party is the resident of far away place i.e., within the State of U.P. and so, his presence would not be frequent in order to trace out the victim or to have some sort of collection of material, at least, the day-to-day affairs having been faced by the victim. Although, there happens to be no material either at the side of petitioner identifying the petitioner no. 1 as well as petitioner no. 3 to be separate in mess and business nor there happens to be such material in the case diary. There happens to be no disclosure in the case diary that any information was made to the police nor such document was available as an Annexure of the main petition.

After all, a living person has disappeared from her Sasural and for that, in terms of Section 106 of the Evidence Act, the accused persons are responsible, more particularly, the husband as well as mother-in-law. Consequent thereupon, prayer for anticipatory bail made on behalf of petitioner no.1,



SALEHA @ SALEHA KHATUN @ SHALEHA is hereby rejected.

So far petitioner no.2 is concerned, she happens to be a married Nanad and petitioner no. 3, a younger Gotni having same status in the family as that of Farzana, the victim and in the aforesaid background both the petitioners no.2 and 3, namely, Nausahiba @ Najia Tabasum and Arsi @ Arsi Khatoon @ Arti, in the event of their arrest/surrender within a period of four weeks from today, are hereby, directed to be released on bail on furnishing bail bond of Rs. 10,000/- each with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Gaya in connection with Kotwali PS Case No. 156/2019, subject to the condition as laid down under Section 438(2) CrPC.

Accordingly, order dated 03.09.2019 also stands modified by dint of vacating the stay granted to the petitioner no.1.

(Aditya Kumar Trivedi, J)

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