

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70890 of 2018**

Arising Out of PS. Case No.-208 Year-2018 Thana- PALASI District- Araria
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1. Md. Kasib Khan S/o Md. Sakil Khan
2. Md. Sakil Khan S/o Late Domar Khan
3. Bibi Sabista Khatoun @ Bibi Sabista W/o Md. Ashique Khan All Resident of Village-Bansar, P.S. Palasi, Distt.-Araria

... .. Petitioners

Versus

The State Of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner	:	Mr. N.K. Agrawal, Sr. Advocate. Mr. Sanjeev Kumar, Advocate.
For the Informant	:	Mr. Md. Naushaduzzoha, Advocate.
For the State	:	Mrs. Pushpa Sinha-2, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

4 01-03-2019 Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners apprehend their arrest for the offences alleged under Sections 363 and 366A of the Indian Penal Code registered in connection with Palasi P.S. Case No. 208 of 2018, G.R. No. 2454 of 2018.

3. It is submitted that the petitioners have been falsely implicated and as a matter of fact, the so-called victim girl, who has reached the age of puberty, has voluntarily accompanied and solemnized marriage with one Ashique Khan with whom she has been residing. The petitioners are the brother, son and the first wife of the said Ashique Khan. It is submitted that the informant's daughter can be produced before the learned Court below for her identification, medical examination and for recording her statement. The petitioners claim clean antecedents.



4. Learned APP assisted by learned counsel for the informant appear and have been heard.

5. Be that as it may, in the event of the petitioners' arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on provisional bail on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-VI, Araria, in connection with Palasi P.S. Case No. 208 of 2018, subject to the conditions as laid down under Section 438 (2) Cr.P.C., and also subject to the following further conditions:

(i) That one of the bailors of each of the petitioners shall be their close relatives other than the petitioners herein.

(ii) That the petitioners shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioners 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 no. 1 and 2 shall remain physically present and petitioner no. 3 shall be well represented 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.

6. The provisional bail shall be confirmed if the informant's daughter is produced by the petitioners' side before the learned Court below within a period of two weeks from today. For this purpose, the Superintendent of Police, Araria shall ensure adequate measures for her safety, if approached by the petitioners' side, as they apprehend retaliatory action by the



informant's side who do not approve of the marriage. The learned Court below shall record the statement of the informant's daughter under Section 164 Cr. P.C. and also have her medically examined to satisfy itself that she has reached the age of puberty and that she has solemnized marriage with Ashique Khan voluntarily. The entire exercise shall be concluded preferably the same day when the girl is produced before the learned Court below or as expeditiously thereafter as possible.

7. In case the petitioners fail to produce the informant's daughter before the learned Court below within the stipulated time, or she is below the age of puberty, or her statement is contrary to the claim of the petitioners as aforesaid, the provisional bail shall stand cancelled.

(Vikash Jain, J)

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