

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78213 of 2019

Arising Out of PS. Case No.-1087 Year-2015 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. LALA MAHTO Son of Late Tulsi Mahto Resident of Village - Gulni Dihuri, P.S.- Chandautei, District- Gaya
 2. Ram Barat Prasad @ Ram Bharat Prasad Son of Sri Lala Mahto Resident of Village - Gulni Dihuri, P.S.- Chandautei, District- Gaya
 3. Ram Kumar Prasad @ Ram Kumar Son of Ram Bharat Prasad @ Ram Barat Prasad Resident of Village - Gulni Dihuri, P.S.- Chandautei, District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Satya Narayan Prasad Son of Late Ragho Mahto Resident of Village - Panhari, P.O.- Hemra, P.S.- Khizarsarai, District- Gaya

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Samir Kumar Sinha, Adv. Mr. Akhileshwar Dayal, Adv.
For the Opposite Party/s	:	Mr. Rajeev Nayan, APP
For the informant	:	Mr. Vishal Saurabh, Adv.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 06-10-2021 Heard Mr. Samir Kumar Sinha, learned counsel for the petitioners, Mr. Rajeev Nayan, learned Additional Public Prosecutor for the State and Mr. Vishal Saurabh, learned counsel for the O.P. No.2 /informant.

2. Petitioners have preferred this application for anticipatory bail in connection with Complaint Case No. 1087/2015 registered for the offence punishable under Section 4 of the Dowry Prohibition Act inasmuch as earlier anticipatory bail application of the petitioners bearing Cr. Misc. No.



12744/2019 was dismissed for default *vide* order dated 10.07.2019 (Annexure-1) and instead of getting earlier Cr. Misc. No. 12744/2019 restored, a fresh Cr. Misc. application has been filed.

3. The allegation, as per the Complaint Case bearing No. 1087/2015, is that the marriage of the daughter of the complainant, namely, Rishu Kumari was fixed with one Ram Kumar, (petitioner no.3) son of Ram Bharat Prasad (petitioner no.2) and, as alleged, the date of marriage was fixed on 02.06.2015 and when the complainant along with his daughter and other family members reached the venue for the purpose of solemnization of marriage, the accused persons did not turn up and after the complainant contacted them on phone, he was told that the wife of petitioner no.2 had fallen ill and subsequently, the accused persons arrived at the venue and told that unless a sum of Rs. 50,000/- more as dowry is given the boy i.e., petitioner no.3 would not solemnize marriage with the daughter of the complainant.

4. It has further been alleged that the complainant expressed his inability to pay a further sum of Rs. 50,000/- inasmuch as Rs. 2,50,000/- was paid by him on the occasion of engagement as gift but the accused persons refused to return the



money and also refused to perform marriage with the daughter of the complainant.

5. Learned counsel for the petitioners submits that petitioners have not committed any offence as alleged and they have falsely been implicated in this case due to oblique motive. Learned counsel next submits that due to some unavoidable reasons, the marriage between daughter of the complainant and petitioner no.3 could not be materialized and now the marriage of petitioner no.3 as well as the daughter of the complainant has been solemnized with another persons.

6. On the other hand, learned counsel for the Opposite Party No.2/informant, vehemently, opposes the prayer for anticipatory bail of the petitioners and submits that while the first bail application was being heard, this Court had given time to the then learned counsel appearing for the petitioners to take instructions as to whether they would be willing to deposit a sum of Rs. 2 Lacs before the learned court below subject to the final outcome of the trial but the previous counsel instead of informing this Court after having instruction from his client on this point, chose not to appear before the Court on three dates. Accordingly, this Court was pleased to dismiss the anticipatory bail application filed by the petitioners for default.



7. Learned counsel next submits that the conduct of the petitioners is not *bona fide* and now they have filed another anticipatory bail application through a new counsel.

8. This Court *vide* its order dated 08.09.2021 had granted two weeks' time to the learned counsel for the petitioners to seek instruction on the point as to whether they are willing to deposit Rs. 2 Lacs before the learned lower court subject to the final outcome of the trial but learned counsel for the petitioners submits that petitioners are not ready to deposit the amount before the trial court.

9. Regard being had to the submissions made by the parties and taking into consideration the material on record and the fact that there is specific allegation against the petitioners of demand of dowry and this is the second anticipatory bail application filed by the petitioners after having the first anticipatory bail application dismissed for default due to non appearance of the earlier counsel which, in my opinion, is not a *bona fide* conduct of the petitioners.

10. Accordingly, I am not inclined to grant anticipatory bail to the petitioners no.2, Ram Barat Prasad @ Ram Bharat Prasad and 3, Ram Kumar Prasad @ Ram Kumar. As such, prayer for anticipatory bail made on behalf of



petitioners no.2, Ram Barat Prasad @ Ram Bharat Prasad and 3, Ram Kumar Prasad @ Ram Kumar, is hereby, rejected.

11. However, taking into account the advanced age i.e., 89 years, of petitioner no.1, I am inclined to release him on anticipatory bail. Accordingly, let the petitioner no.1, LALA MAHTO, in the event of his arrest/surrender within six weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gaya in connection with Complaint Case No. 1087/2015 subject to the condition as laid down under Section 438(2) of the CrPC.

(Anil Kumar Sinha, J)

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