

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.1173 of 2017**

Arising Out of PS. Case No.-106 Year-2016 Thana- ROHTAS COMPLAINT CASE District-  
Rohtas

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Mosmat Kanchan Devi daughter of Baikunth Sah wife of Late Dhruv Sah,  
Resident of Mohalla- Bahri Begampur, Sati Chaura near Pipaltal, P.S.- Bye-  
Pass, Patna City, District- Patna.

... .. Petitioner

Versus

1. The State Of Bihar Through The Director General Of Police, Bihar, Patna and Ors
2. The Superintendent of Police, Patna.
3. The Superintendent of Police, Rohtas.
4. The Station House Officer, Police Station- Bye- Pass, District- Patna.
5. The Station House Officer, Police Station- Nasriganj, District- Patna.
6. Sunita Kunwar, wife of Late Amar Nath Sah
7. Amrish Kumar son of late Amar Nath Sah
8. Vinay Kumar son of late Amar Nath Sah
9. Anand Kumar son of late Amar Nath Sah
10. Saloni Devi wife of Amrish Kumar
11. Shashi Kumari daughter of Late Amar Nath Sah Respondent no. 6 to 11 are resident of Mohalla- Bahri Begampur, Sati Chaura near Pipaltal, P.S.- Bye- Pass, Patna City, District- Patna.

... .. Respondents

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**Appearance :**

For the Petitioner/s : Mr.Bindeshwar Kumar, Advocate  
For the Respondent/s : Mr.Sanjay Kumar, A.C.to S.C.-8

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

2      15-11-2022                      Heard learned counsel for the petitioner and learned  
counsel for the State.

Learned counsel for the petitioner submits that in this  
case, though the petitioner is seeking a direction in the nature of  
mandamus commanding the State-respondents to provide



adequate protection to her life and property and her two minor sons, the fact remains that the petitioner is looking for a share in the property of her husband who is no more and her case is that the co-sharers of her husband are not allowing her to live in the common household.

Learned counsel for the State submits that the grievance of the petitioner may at best attract the provisions of the Domestic Violence Act but by no means it may be said to be a case looking for protection of life as it is known in common parlance.

This Court finds substance in the submission of learned counsel for the State. To this Court, it appears that the petitioner had filed a complaint case against her in-laws and other members of the family who have been granted anticipatory bail by a learned Bench of this Court. While granting anticipatory bail to the in-laws, the learned Bench has inter alia passed the following order:-

“ The bail bonds of the petitioners will be accepted on filing of individual affidavit by the petitioners before the learned court below that they will allow the informant to enjoy her share of property in the matrimonial house. The said affidavits will be transmitted by the learned court below to the concerned I.O. Non compliance of the aforesaid undertaking shall give liberty to prosecution to file



application for cancellation of bail bonds of the petitioners by learned court below.”

Learned counsel for the State submits that if it is the grievance of the present petitioner that her in-laws are not allowing her to live in the common household and they are not giving her share of the property, she has, besides other option, one more option to file an appropriate application before the learned Magistrate for cancellation of bail bonds of the accused.

Having regard to the aforementioned facts and circumstances of the case, this Court is disposing of this writ application with liberty to the petitioner to seek her remedy before the appropriate court in appropriate jurisdiction for her claim towards living in the common household and share of the property. This Court is also of the considered opinion that in case the accused persons have not followed the conditions imposed by this Court in Cr. Misc. No. 44925 of 2016, it is open for the informant-petitioner to file an appropriate application before the learned Magistrate. If any such application is filed, the learned Magistrate would be obliged to consider the said application in accordance with law after giving appropriate opportunity of hearing to the accused persons but in any case such application must be considered and disposed of within a



reasonable period.

This application stands disposed of accordingly.

**(Rajeev Ranjan Prasad, J)**

vats/rajeev-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

