

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32845 of 2022

Arising Out of PS. Case No.-2 Year-2022 Thana- LAHERIMUHALLA District- Nalanda

1. Shishupal Prasad Son of Late Basudeo Prasad R/o Village- Chainpur, P.O.- Jaitpur, P.S.- Chandi, District- Nalanda At Present Mohalla- Kamruddinganj, P.S.- Laheri, District- Nalanda
2. Dharmpal Kumar, Son of Shishupal Prasad, R/o Village- Chainpur, P.O.- Jaitpur, P.S.- Chandi, District- Nalanda at present Mohalla- Kamruddinganj, P.S.- Laheri, District- Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shilpi Kumari W/o- Dharmpal Kumar, D/o- Vinod Kumar Singh R/o Village- Bhatu Bigha, P.O. + P.S.- Ben, District- Nalanda

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Suresh Prasad, Advocate.
For the Opposite Party/s	:	Mr.Md. Nazir Ansari, APP.
For the Informant	:	Mr. Binay Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

8 04-05-2023 Heard Mr. Suresh Prasad, learned counsel appearing on behalf of the petitioners, Mr. Md. Nazir Ansari, learned APP for the State and Mr. Binay Kumar, learned counsel for the informant.

2. The petitioners seek pre-arrest bail in connection with Laheri P.S. Case No. 02 of 2022 registered for the offence punishable under Sections 498(A)/34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

3. Prosecution story, in brief, is that the informant is married with the petitioner no.2 and due to non-fulfillment of



demand of dowry, opposite party no.2 was allegedly subjected to various sorts of torture by her in-laws including the petitioners.

4. Learned counsel appearing on behalf of the petitioners submits that the petitioners are innocent. Petitioner No.2 has already filed a divorce petition before the Family Court, Bihar Sharif being Divorce Case No. 70 of 2021. Learned counsel submits that divorce case is pending and he has not received instruction whether the petitioner no.2 is willing to withdraw the said case so that he can live along with the opposite party no.2.

5. Opposite party no.2 is present in person in Court and she informs this Court that she wants to live along with the petitioner subject to the condition that the petitioner is ready to keep her with full dignity and honour and also fulfill all her physical and financial need. It is further informed by the learned counsel appearing on behalf of the informant that the petitioner has not attended the court proceeding in divorce case which has been filed by the petitioner.

6. Learned counsel appearing on behalf of the petitioner informs this court that the petitioner was directed to appear before this Court in person, since he is ill and



hospitalized, he has not been able to make his attendance before this Court.

7. Considering the nature of allegation made in the F.I.R. and the fact that the petitioner no.2 has resorted to obtain divorce decree in which the opposite party no.2 has already tendered her appearance and now the petitioner is not attending the proceeding and in a deceptive manner has obtained interim protection from this Court. The opposite party no.2 is ready to live with the petitioner no.2. The Superintendent of Police, Nalanda at Biharsharif is directed to depute a responsible police officer to examine as to whether the plea taken by the petitioner no.2 before this Court that he has taken ill and he has been hospitalized in Divya Jyoti Hospital, Biharsharif, Nalanda have abstained from attending the court proceeding. The veracity of the illness of the petitioner is to be reported and the Superintendent of Police must also ensure whether the hospital is registered and the doctors are having proper medical certificate to practice. In case the petitioner has obtained forged certificate / prescription of the doctor to avoid the court proceeding, the petitioner no.2 must be taken into custody.

8. So far as the petitioner no.1 is concerned, he is directed to be released on pre-arrest bail, in the event of his



arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned ACJM-V, Nalanda in connection with Laheri P.S. Case No. 02 of 2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

9. So far as petitioner no.2 is concerned, his prayer for bail is rejected.

10. Petitioner no.2 may surrender before the court below and seek regular bail, in that event, court below is directed to summon the opposite party no.2 just to seek her desire as to whether she is willing to live along with the petitioner no.2 and if the petitioner no.2 don't desire to live along with her, it will not be proper for petitioner no.2 to be released.

11. The bail application stands disposed of.

(Purnendu Singh, J)

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