

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44572 of 2022

Arising Out of PS. Case No.-24 Year-2022 Thana- MAHILA PS District- Jamui

1. SUBHIT TANTI S/o Late Daso Tanti Resident of Village - Postahiya, P.S.- Laxmipur, and District - Jamui.
2. Kalendar Kumar Tanti @ Prem Kumar S/o Subhit Tanti Resident of Village - Postahiya, P.S.- Laxmipur, and District - Jamui.
3. Ganesh Kumar Tanti @ Ganesh Tanti S/o Subhit Tanti Resident of Village - Postahiya, P.S.- Laxmipur, and District - Jamui.
4. Lalpari Devi W/o Subhit Tanti Resident of Village - Postahiya, P.S.- Laxmipur, and District - Jamui.
5. Aarti Kumari @ Aarti Devi W/o Umesh Tanti Resident of Village - Postahiya, P.S.- Laxmipur, and District - Jamui.
6. Umesh Tanti S/o Late Puna Tanti Resident of Village - Amari, P.S.- Khira, District - Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Seema Kumari D/o Lakhan Tanti Resident of Charan, P.S.- Shikandra, Dist. - Jamui.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Akash Raj, Advocate
For the Opposite Party/s	:	Mr. Prem Kumar Jha, APP
For the O.P. No. 02	:	Mr. Sanjay Kr. Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 18-12-2023 1. Heard learned counsel for the petitioners and learned APP for the State alongwith learned counsel for the O.P. No. 02.

2. Learned counsel for the petitioners submits that petitioners are in-laws of the O.P. No. 02. It is next submitted that O.P. No. 02 had instituted an FIR being Mahila P.S. Case No. 24 of 2022 under Sections 498A, 323, 504, 506, 493, 313



and 34 of the Indian Penal Code read with Sections 3 and 4 of the Dowry Prohibition Act, in which, the petitioners alongwith the husband of the O.P. No. 02 and other family members were made accused with general and omnibus allegations. It is next submitted that the petitioners had moved before the learned Sessions Judge, Jamui in ABP No. 857 of 2022 seeking anticipatory bail and the same was allowed by order dated 10.06.2022. It is further submitted that the anticipatory bail was granted to the petitioners with a condition that they will permit the informant (O.P. No. 02) to live in their house and to this effect they will have to furnish a certificate granted by Mukhiya/ Sarpanch of the Village before the learned trial court at the time of furnishing the bail bonds.

3. Learned counsel for the petitioners submits that it has been specifically pleaded at Paragraph-9 of the present quashing application that petitioner No. 01 and 04 do not have any knowledge of marriage of their son with the O.P. No. 02 and the son is also absconding. It is next submitted that petitioners are disputing the marriage but they were granted anticipatory bail with the aforesaid condition. It is further submitted that the petitioners, thereafter, filed a modification application in ABP No. 857 of 2022 seeking modification of the order dated



10.06.2022 for modifying the said condition, but then, the same was also rejected by an order dated 21.06.2022, as such, in the present quashing application, the order dated 21.06.2022 is under challenge alongwith the part of the order dated 10.06.2022 by which the said condition was imposed. Learned counsel for the petitioners further submits that such an onerous condition ought not to have been imposed by the learned Sessions Judge while granting anticipatory bail, it is next submitted that if the O.P. No. 02 intends to have a right of residence in the house of the petitioners, in that event, she had remedy under an appropriate law but without resorting to that remedy such condition could not have been imposed.

4. Learned counsel appearing on behalf of the O.P. No. 02 is not in a position to rebut the submission of the learned counsel for the petitioners that in the event if O.P. No. 02 intends to have a right of residence in the house of the petitioners, in that event, she has remedy available in accordance with law before an appropriate forum but without resorting to that remedy such a condition could not have been imposed.

5. Considering the submission made by the learned counsel for the petitioners, it manifestly appears that the



condition imposed by the learned Sessions Judge in ABP No. 857 of 2022 granting anticipatory bail with a condition that they will permit the informant to live in their house and to this effect they will furnish a certificate granted by Mukhiya/Sarpanch of village before the learned trial court at the time of furnishing bail bonds appears to be excessive. As such, the said condition contained in the order dated 10.06.2022 in ABP No. 857 of 2022 is hereby set aside, rest of the conditions will remain.

6. In the event, if the bail bonds are furnished on behalf of the petitioners by 15.01.2024 the same shall be accepted on the same terms and conditions as recorded in the order dated 10.06.2022 in ABP No. 857 of 2022.

7. It is made clear that the condition of allowing the right of residence to the O.P. No. 02 has been set aside.

(Satyavrat Verma, J)

Adnan/-

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