

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46835 of 2023

Arising Out of PS. Case No.-1328 Year-2010 Thana- BUXAR COMPLAINT CASE District-
Buxar

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1. Lalan Ram, Aged about- 66 years, Male, Son Of Late Jagdev Ram.
 2. Manoj Kumar Ram, Aged about 38 years, Male, Son Of Lalan Ram both are Resident Of Village Amsari, P.S.- Murar, District- Buxar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Baban Ram, Son Of Late Mukteshwar Ram, Resident Of Village- Mahraura, P.S.- Dumraon, Dist- Buxar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Pradhan, Advocate
For the Opposite Party/s : Mr. Syed Ehteshamuddin, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 11-08-2023 Heard Mr. Arvind Kumar Pradhan, learned counsel

 appearing on behalf of the petitioners and Mr. Syed

 Ehteshamuddin, learned APP for the State.

2. The petitioners seek pre-arrest bail in connection with Complaint Case No. 1328(C) of 2010 dated 20.12.2010 registered for the offence punishable under Sections 406, 420, 468 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

3. As per the allegation made in the complaint petition it has been alleged by the complainant that he had solemnized the marriage of his daughter with the petitioner no. 2, namely,



Manoj Kumar Ram on 09.06.2009 and had given cash of Rs. 50,000/- and cost of other expenses amounting Rs. 40,000/- and an agreement was made that after passing of one year, the petitioner will perform *duragaman* i.e. returning back to the matrimonial house from the parental house. The same having not been done, a *panchayati* was held in which allegation is that petitioner had demanded Rs. 50,000/- and a buffalo and upon non-fulfillment of the same, the petitioners had refused to perform *duragaman* and the daughter of the complainant remained in the parental home.

4. Learned counsel appearing on behalf of the petitioners submitted that the factum of marriage is not sustainable and in this regard he has made a specific statement in paragraph no. 7 to the bail application that petitioner no. 2 had never solemnized marriage with the daughter of the complainant. The petitioner no. 2 is a married man and he is living peacefully with his wife, however, because of frivolous complaint, the Court below issued process under Section 82 of the Code of Criminal Procedure and the petitioners were forced to obtain anticipatory bail after lapse of 12 years from the date of filing of the complaint case. The petitioners have filed the present bail application against the rejection of the anticipatory



bail pleading their innocence. Petitioners have clean antecedent. Learned counsel further submitted that the complainant has stopped doing *pairvi* in the complaint and in spite of the notices having been issued to oppose the anticipatory bail application of the petitioners, the complainant did not turn to appear before the Court below to oppose the bail application. On these grounds, petitioners seek to be released on pre-arrest bail.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail.

6. Considering the nature of allegation made in the FIR as well as the fact that the petitioners had breached the oral agreement between the complainant and him that he will perform *duragaman* after one year of marriage so that he can take the daughter of the complainant back to the matrimonial home, the same was not performed and the petitioner has been made accused. It appears from the impugned order that the bail application of the petitioners was rejected after 12 years from the date of filing of the complaint petition. No steps were taken by the complainant to persuade the petitioners to take his daughter to her matrimonial home. On the other hand, petitioners have stated in paragraph no. 7 to the bail application that petitioner no. 2 had never solemnized marriage with the



daughter of the complainant and has been implicated in a false case. I am of the opinion that petitioners have, *prima facie*, made out a case to be released on pre-arrest bail.

7. The petitioners, above named, are directed to be released on pre-arrest bail, in the event of their arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned C.J.M., Buxar, in connection with Complaint Case No. 1328(C) of 2010 dated 20.10.2010, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Purnendu Singh, J)

Niraj/Nilmani

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