

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6361 of 2024

Arising Out of PS. Case No.-200 Year-2019 Thana- BAHERA District- Darbhanga

1. Radhay Shani @ Radhe Sahani S/o Raghunath Sahni Resident Of Neuri Tole Dath, Ps.- Biraul, Dist. Darbhanga.
2. Radhunath Sahni @ Raghunath Sahani S/O Late Soti Sahni Resident Of Neuri Tole Dath, Ps.- Biraul, Dist. Darbhanga.
3. Asabhogini Devi @ Ashbhagati Devi @ Asbhagni Devi W/O Radhunath Sahni @ Raghunanth Sahni Resident Of Neuri Tole Dath, Ps.- Biraul, Dist. Darbhanga.
4. Kala Devi W/o Radhay Sahni Resident Of Neuri Tole Dath, Ps.- Biraul, Dist. Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ramdhay Devi W/o Shambhu Sahani Presently R/o Village- Jaoghatta, Ps. Bahera, Dist. Darbhanga.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar Jha, Advocate
For the State	:	Mr. Asha Devi, APP
For the Informant	:	Mr. Kedar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

4 07-05-2024 Heard Ld. counsel for the petitioners and Ld. APP for the State.

2. The Petitioners apprehend their arrest, in connection with Bahera P.S. Case No. 200 of 2019 dated 05.05.2019, registered for the offences punishable under Sections 498(A), 341, 323, 379, 427 of the Indian Penal Code as well as Section 3/4 of the Dowry Prohibition Act.

3. The prosecution case as emerges from the F.I.R. is that the Accused persons including the Petitioners are alleged to



have tortured the informant for non-fulfillment of demand of dowry.

4. Ld. Counsel for the Petitioners submit that the Petitioners are other than husband and the allegation made by the Informant is omnibus in nature. He further submits that there is no specific allegation of any overt-act against the Petitioners and the alleged offence is punishable maximum up to three years. However, Ld. Counsel for the Informant, Mr. Kedar Jha, submits that the present anticipatory bail petition is not maintainable because he has no apprehension of arrest because charge-sheet has already been submitted against him. He further submits that as per ratio of **Satyendra Kumar Antil Vs. Central Bureau of Investigation, (2022) 10 SCC 51**, this petition is not maintainable. However, Ld. Counsel for the Informant fails to point out any paragraph of the judgment, which clearly shows that in the given facts and circumstances, anticipatory bail is not maintainable and the right of the Petitioner to avail the remedy under Section 438 Cr. PC is barred.

5. It is also stated in paragraph no. 2 of the bail petition that the petitioners have not moved this Court earlier either for anticipatory bail or regular one in the instant case.



6. It is also stated in paragraph no. 3 of the bail petition that the petitioners have no criminal antecedents.

6. However, Ld. APP for the State vehemently opposes the prayer of the Petitioners for bail.

7. Considering the aforesaid facts and circumstances, I find that the present petition is maintainable. I further find that the allegation against the Petitioner is omnibus in nature. Hence, **this application is allowed**, directing the petitioners, above-named, to be enlarged on bail in the event of their arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on their furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Additional Chief Judicial Magistrate-Ist, Benipur, District – Darbhanga corresponding to G.R. No. 208 of 2019, in connection Bahera P.S. Case No. 200 of 2019, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and the following conditions:

(i) In case, it is brought to the notice of the court below that the Petitioners have given wrong statement regarding their criminal antecedents, Ld. court below shall cancel the bail bond of the petitioners after hearing them and getting satisfied



that the petitioners have concealed their criminal antecedents despite their knowledge of the same.

(ii) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bond of the petitioners.

(Jitendra Kumar, J)

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