

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51830 of 2024

Arising Out of PS. Case No.-86 Year-2001 Thana- JOGBANI District- Araria

1. Kusum Lal Gupta @ Kusumlal Gupta, Male, aged about 58 years, Son of Late Bansi Sah
2. Sindhuja @ Doli, Female, aged about 35 years, Wife of Sushil Kumar Sah
3. Rajeev Kumar Ranjan @ Rinku, Male, aged about 35 years, Son of Kusum Lal Gupta
4. Nutan Devi, Female, aged about 30 years, Wife of Rajee Kumar Sah
All Residents of Rajni Chowk, P.S - Sahayak Khazanchi, District- Purnea
5. Arbind Kumar @ Arbind Kumar Sah, Male, aged about 60 years, Son of Sitaram Sah, Resident of Ekchari, P.S. - Rasulpur, District - Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md Fazle Karim, Advocate
For the Opposite Party/s : Ms. Madhuri Lata, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 28-08-2024 Heard Mr. Md. Fazle Karim, learned counsel

appearing on behalf of the petitioners and Ms. Madhuri Lata,

learned APP for the State.

2. The petitioners seek pre-arrest bail in connection
with Jogbani P.S. Case No. 86 of 2001, registered for the
offence punishable under Sections 341, 323, 312, 497 and 34 of
the Indian Penal Code.

3. As per the allegation made in the FIR, informant,
who has claimed himself to be the husband of petitioner no. 2,
who is daughter of petitioner no. 1 and petitioner no. 3 is



brother-in-law, petitioner no. 4 is sister-in-law and petitioner no. 5 is distant relative of the petitioner no. 2, alleged that all the accused persons named in the FIR had terminated the fetus with a common intention. It has also been alleged that petitioner no. 2 was in bad company. Allegation against the petitioner no. 2 is also that she had left the house with ornament worth Rs. 50,000/- along with brother-in-law, namely, Bijendra Prasad.

4. Learned counsel appearing on behalf of the petitioners submitted that informant has lodged the present FIR against the family member including his wife (petitioner no. 2) in the year 2001 and during the pendency of the criminal case, both the parties had entered into compromise. Thereafter, they had agreed to live separately and both of them married in due course of time. Petitioners were not aware that process under Section 82 and 83 Cr.P.C. have been issued and after having come to learn about the same, they preferred pre-arrest bail before the learned District Court and the learned District Court on mere technical ground, without discussing the fact of the case, has dismissed the bail application. Learned counsel submitted that petitioners have specifically stated in paragraph no. 12 that a compromise has taken place between the parties on 24.04.2012 and, thereafter, there was no apprehension of being



arrest. Learned counsel, in these backgrounds, submitted that the FIR appears to have filed by the informant as a result of strained matrimonial relationship and in spite of the same having been resolved, the petitioner is facing rigours of criminal prosecution. On these grounds, petitioner seeks to be released on pre-arrest bail.

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

6. Having considered the rival submissions made on behalf of the parties, as well as, the fact that the dispute is between petitioner no. 2 and the informant, who are husband and wife and due to strained matrimonial relationship, they started living separately and in course of time, they had entered into a compromise to resolve their dispute amicably though, admittedly, no court decree has been obtained in this regard. The petitioners have stated in paragraphs no. 12 and 13 that compromise had taken place on 24.04.2012 and the petitioner no. 2 and informant had married as per their own wishes and desire thereafter.

7. I find that the petitioners, if so advised, may surrender before the learned District Court and file regular bail application and the learned District Court, considering the fact



that the present FIR has been lodged as a result of strained matrimonial relationship way back in the year 2001 and, thereafter, the parties had finally entered into compromise in the year 2012 and had resolved their dispute amicably, dispose of the regular bail application of the petitioner, same day, by passing a reasoned order.

8. It is made clear that technical ground should not come in a way while deciding the regular bail application of the petitioner.

9. Accordingly, the present bail application is disposed of.

(Purnendu Singh, J)

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