

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65039 of 2023

Arising Out of PS. Case No.-161 Year-2020 Thana- JAGDISHPUR District- Bhagalpur

1. Md. Aftab Alam, aged about 33 years, Male, S/O Md. Faiyaz, R/O Village- Jamni Tola, Khiribandh, P.S- Jagdishpur (Bypass), Distt.- Bhagalpur.
2. Nikhat Khatun, aged about 52 years (Female), W/O Md. Faiyaz, R/O Village- Jamni Tola, Khiribandh, P.S- Jagdishpur (Bypass), Distt.- Bhagalpur.

... .. Petitioners

Versus

1. The State of Bihar.
2. Bibi Gulfasjna, D/O Md. Ekhlak, R/O Village- Jamni Tola, Khiribandh, P.S- Jagdishpur (Bypass), Distt.- Bhagalpur.

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr. Praveen Kumar Agrawal, Advocate
For the O.P. No. 2	:	None.
For the State	:	Mrs. Sharda Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 18-03-2024 This matter has been listed under the heading “For Orders (on office notes)”. A jointness petition filed on behalf of the petitioners is accepted.

2. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State. However, learned counsel for the opposite party no. 2 is not present.

3. The petitioners are apprehending their arrest in connection with Jagdishpur (By-pass) P.S. Case No. 161 of 2020 dated 18.05.2020 registered for the offences punishable under Sections 341, 323, 504, 506/34 of the I.P.C. and Sections ¾ of



the D.P. Act.

4. As per the prosecution case, the petitioners and other co-accused persons are alleged to have tortured the informant mentally and physically due to non-fulfilment of demand of Rs. 2,00,000/- as dowry.

5. Learned counsel for the petitioners has submitted that the petitioners are innocent and have been falsely implicated in this case. The petitioners neither demanded any dowry nor tortured the informant. It is further submitted that the petitioner no. 1 is the husband and the petitioner no. 2 is the mother-in-law of the informant and they have no concern with the alleged offence. It is submitted that during investigation, the petitioners have been given benefit under Section 41(A)(1) of the Cr.P.C., by the Investigating Officer and later on, the Investigating Officer has submitted Charge Sheet No. 10 of 2022 on 28.02.2022 for the offences punishable under Sections 341, 323, 504, 506, 498A/34 of the I.P.C. and Sections 3/4 of the D.P. Act against the petitioners and others. Thereafter, the learned Chief Judicial Magistrate, Bhagalpur, took cognizance on 26.04.2022 for the offences punishable under Sections 341, 323, 504, 506, 498A/34 of the I.P.C. against the petitioners and others and also issued process of their arrest. Earlier the



informant had also lodged Mahila P.S. Case No. 17 of 2014 for the offences punishable under Sections 376, 307 and 420/34 of the I.P.C. against the all family members of the petitioner no. 1 to make pressure upon the petitioner no. 1 to solemnize marriage with the informant and lastly with the interference and direction of the Hon'ble Court, the petitioner no. 1 had solemnized marriage with the informant and thereafter the petitioner no. 2 was enlarged on bail in Mahila P.S. Case No. 17 of 2014. It is submitted that the petitioner no. 1 had not performed second marriage. It is further submitted that the petitioner no. 1 is always ready to keep the informant as his wife full dignity and respect as stated in paragraph no. 15 of the bail petition. Learned counsel for the petitioners has relied upon the judgments of this Court in the case of "***Md. Naimul Haque Ansari @ Naimul Haque Ansari & Ors. Vs. The State of Bihar***, reported in ***2006(3) PLJR 182***" and in the case of ***Satendra Kumar Antil Vs. Central Bureau of Investigation and Another (2022) 10 SCR 351*** and ***Md. Asfak Alam Vs. The State of Jharkhand & Anr.*** passed in ***Criminal Appeal No (s). 2207 of 2023 arising out of Special Leave Petition (CRL.) No. 3433 of 2023***. Learned counsel for the petitioners has further submitted that Section 498A of the Indian Penal Code is triable



by the Magistrate. The petitioners have one criminal antecedent in which they are on bail as stated in paragraph no. 3 of the bail application.

6. Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioners.

7. Considering the aforesaid facts and circumstances of the case, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) each with two sureties of the like amount each to the satisfaction of learned court concerned, Bhagalpur in connection with Jagdishpur (Bypass) P.S. Case No. 161 of 2020, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

8. If so advised, either of the parties will be at liberty to make an application before the court below for referring the matter to the District Mediation Centre for the purpose of reconciliation or one time settlement.

9. The application stands allowed.

(Chandra Prakash Singh, J)

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