

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26556 of 2024

Arising Out of PS. Case No.-608 Year-2021 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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1. Gautam Kumar S/o Gourishankar Matwala R/o Vill - Mahiyama, P.S. - Sanhaula, Dist. - Bhagalpur
 2. Purusottam Mandal @ Pappu S/o Gourishankar Matwala R/o Vill - Mahiyama, P.S. - Sanhaula, Dist. - Bhagalpur
 3. Gita Devi W/o Gourishankar Matwala R/o Vill - Mahiyama, P.S. - Sanhaula, Dist. - Bhagalpur
 4. Gourishankar Matwala S/o Late Baldev Mandal R/o Vill - Mahiyama, P.S. - Sanhaula, Dist. - Bhagalpur

... .. Petitioners

Versus

1. The State of Bihar
2. Pinki Kumari @ Pinki Devi W/o Gautam Kumar, D/o Kameshwar Mandal R/o Vill - Mahiyama, P.S. - Sanhaula, Dist. - Bhagalpur

... .. Opposite Parties

Appearance :

For the Petitioner/s :	Mr.Md. Nurul Hoda, Advocate
For the Opposite Party/s :	Mr.Madhura Nand Jha, A.P.P.
	Mr Vinay Kr.Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 21-01-2025 Pursuant to order of this Court, the matter was referred to Mediation & Conciliation Center of Patna High Court, but the dispute between the parties could not be resolved through the process of mediation and as such, mediation failed (Report kept at flag 'D').

2. Heard learned counsel for the petitioners, the State and the opposite party no.2.

3. Petitioners, who are husband of opposite party no.2, apprehend arrest in a case registered for the offence punishable under sections 323 and 498A of the Indian Penal Code.

4. Prosecution case in brief is that opposite party no.2 was married with petitioner no.1 on 5.5.2009. After marriage, petitioner no.1 along with other petitioners started demanding



dowry and due to non-fulfillment of the same they used to assault and torture her. Lastly, accused persons ousted opposite party no.2 from her matrimonial house.

5. Learned counsel appearing for the petitioners, while denying the allegations, submits that these petitioners are innocent and have falsely been implicated in this case. Petitioner no. 1 is husband, petitioner no.2 is dewar, petitioner no.3 is mother-in-law and petitioner no.4 is father-in-law of opposite party no.2. As a matter of fact, opposite party no.2 leads adulterous life and she is not agreeable to live with petitioner no.1 as a result of which petitioner no.1 filed Divorce case bearing Matrimonial case no. 139 of 2020 before the Family Court, Bhagalpur in which on notice as well as on paper publication, opposite party no.2 did not appear, consequently, court below passed exparte judgment dated 7.9.2022 and decree of divorce dated 20.9.2022 on the ground of cruelty. A copy of the judgment and decree is contained in annexure P5 to the bail petition. Learned counsel submits that the preset case has been lodged against the petitioners as retaliatory measure intended to settle scores, harass, and put pressure to these petitioners. The case is triable by the Magistrate. The petitioner has further relied upon the judgment 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**.

6. Learned counsel for the State as well as opposite party no.2 oppose the prayer for bail. Learned counsel for opposite party no.2 submits that the petitioner no.1, being husband of opposite party no.2, in connivance with his family members, subjected her to harassment and cruelty for non-fulfillment of demand of dowry and also ousted to her



parents’ house.

7. In view of the aforesaid facts of the case, in the event of arrest/surrender within a period of eight weeks from today, let these petitioners, above-named, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the Judicial Magistrate 1st class, Bhagalpur in Complaint Case No. 608/2021, subject to the conditions laid down under section 438(2) of the Code of Criminal Procedure .

(Prabhat Kumar Singh, J)

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