

[2023] 1 S.C.R. 501

BIMLA TIWARI

v.

STATE OF BIHAR & ORS.

(SLP (Criminal) No. 834-835 of 2023)

JANUARY 16, 2023

[DINESH MAHESHWARI AND HRISHIKESH ROY, JJ.]

Bail - Mifa oidringeida piba bail amadi mifa oiraba matungi bail - Pibagi mawong - Khannagadaba- Warep: Criminal gi aain gi matung inna criminal gi aain asi isha gi kannabagidamak Shakti oina sijinaba amadi sail thoubagidamak sijinaba yadea, maruoina bail niribagi mayokta leibakanda - Case asigi matangda hangba yaba amadi khannaba yaba haibabu, court ki mafamda leiba praman amadi khudam cangdam sing yengduna court ki oiba shakti sijinaduna mifa oidringeida natraga mifa oiraba matungda bail asi pigadara natraga piroidara hibaduni - Hairiba case asiga mari leinana maral siraba mioi (accused) aduna case asida hairiba senfam sing adu pithoklabasu natraga pigani haiba leirabasu mifa oidringeida bail piba natraga mifa oiraba matungda bail pibagi khannabagi tanja pidaba yai - Onnateinabada, hairiba case asiga mari leinana maral siraba mioi (accused) aduna case asida hairiba senfam sing adu pithoklabasu natraga pigani haibagi thajaba thamlabadi mifa oidringeida bail piba natraga mifa oiraba matungda bail pidabasu yai - Tourigumsung, apha apun tourakpa yai haibagi chingnaba leiriba mioi aduna case asiga mari leinana hairiba senfam adu mifa oidringeida pithokani haibagi thajaba pirabasu apha apun leiroy haiba tamba ngamdea - Sen thum loukhatnaba/phangnabagi matang di Civil gi oiba aain na pangthokadabani - Criminal gi aain.

THOIDOK HENDOKPA WAYELSANG : Special leave petition (Crl.) Nos. 834-835 of 2023.

Ing sok 2022 gi Patna High Court ki wayel shang da khannakhiba CRLMN Nos. 15125 amasung 19515 ta takhiba rai.

Shaurya Sahay, wakatliba mi (Petitioner) gi Ukil (Advocate).

Court na takhiba rai makha da piri:

RAI (ORDER)

1. Akhannaba leave petition (wakat) thangatnabagi ayaba pikhi.
2. Masigi petition (wakat) asigi matung inna wakatliba na tang 14. 11. 2022 da Patna High Court ki wayelshangda ing sok 2022 gi Crl. Misc. Case No. 15125 amasung ing

sok 2022 gi 19515 da wahang touri madudi, Indian Penal Code 1860 gi Section 406 amasung 420 amasung Dowry Prohibition Act, 1961, gi Section 3 amasung 4 gi matung inna maral lei hairiba ani suba wakat mayoknagadaba mi (respondent No. 2) na sel oina lupa lishing humdra ga manga (Rs. 75,000/-) wakatliba mi (Petitioner) gi mafam da sinnajagea haiba wafam High Court na taraba matungda wakat mayoknariba mioi (Respondents) sing adu mifa oidringeida bail pikhi.

3. Sikhiba maral na karino hibada, wakatliba mi (Petitioner) gi macha nupiga ani suba wakat mayoknagadaba mi (respondent No. 2) gi machanupa ga luhongnaba lepnakhi amadi heijingpot puba amasung atei thouram sing pangthokhiba matamda wakatliba mi (Petitioner) gi mapuroibana wakat mayoknagadaba mi (Respondents) singi mafamda sel oina lupa lakh taruk (Rs. 6,00,000/-) sinnakhi. Wakatlibana (Petitioner) na makha tanna hikhi madudi wakat mayoknagadaba mi (Respondents) sing aduna makha tanna sail piraku amadi gari na chingbasu piraknaba taklakpadagi maram chade haiduna luhongba adu haidokhi, adumoinamak wakat mayoknagadaba mi (Respondents) sing aduna loukhiba sel sing amasung atei loukhiba potlam sing adu di handorakhidea.
4. Wakat mayoknagadaba mi (Respondents) singna thamlakpa wafam singdagi khangkhi madu di, hannana Patna gi Additional Sessions Judge- IV gi mafamda mifa oidringeida bail pibinaba haijabada yarakhidea, madudagi High Court ta amuk mifa oidringeida bail pibinaba darkhas ama thangkhatkhi, case ki number na 5967, ing sok 2019 da madusu ayaba pirakhidea. Madugi makha tarakpada Trial Court na case asigi matangda thijinbada matik chaba praman kaya phangduna maral siraba mioi sing adu koukhatuna wahang paohang tounaba/ achum aral thidoknaba tang 14.09.2020 da rai takhi. Madugi matungda wakat mayoknagadaba mi (respondents) sing aduna Patna gi Additional Sessions Judge- IV gi court ta tang 21.12.2021 da mifa oidringeida bail pibinaba darkhas amamuk thakhi, madusu hairiba numit tu maktada adum ayaba pirakhidea. Maram Aduna wakat mayoknagadaba mi (respondent) sing aduna High Court ta darkhas thaduna wakatpada wafam sing adu punna khannaraba matung tang 14.11.2022 da apunba rai takhi amasung hairiba rai asibuni wakat asida yumpham yaowbara/ yaowdabara haina wakatliba mi na hanglibasi.
5. High Court ki maphamda mifa oidringeida bail pibinaba maral siraba mioi sing adugi drakhas adu khannaba matamda wafam ama pukhatlakhi madudi Vijaya Malviya koubi wakat myoknariba maraktagi amana High court ki ing sok 2021 gi Criminal Misc. No. 32384 gi matangda tang 10.03.2022 gi rai amagi matung inna thoudok aduda hairiba senpham lakh taruk (Rs.6,00,000/-) adu Bank Draft oina wakatliba mi adugi mafamda hankhi. Hairiba senpham asi wakatliba mi adugi ukil (Counsel) gi makhutta sinakhi.

6. wakat mayoknagadaba mi sing aduna mifa oidringeida bail pibinaba thakhiba darkhash sharkar amasung paow pirakliba (informant) anigi maikeidagi yetkhi maramdi Code of Criminal Procedure, 1973 ('Crpc') gi Section 82 amasung 83 gi matung inna case chathaba houkhrea adugisu mathakta heijingpot ta changkhiba sel gi senpham handorakpa natraga pithorakpa leikhidri. Madudagi ani suba wakat mayoknagadaba mi (respondent No. 2) da sel oina ataopa lupa lishinh humdra manga (Rs.75,000/-) amaga demand draf oina hapta taruki manungda pinaba khanghankhi amasung hiriba wafam asi yaraba matung da High Court na yengbiduna mifa oidringeida piba bail ayaba pikhi.
7. High Court na takhiba rai asigi mayokta houjikki wakatliba mi asina mahakkidamak khannaba yaba wafam kaya pukhatlakkhi madudi, mifa oidringeida pigadaba bail asi Cr.PC gi Section 82 jariraba amadi khannaringeida hairiba makhal gi bail asi pifam thoktea ; madugisu mathakta sel piyu haina pao pirakliba (informant) na tanliba asi namthak touduna aain na yadaba mawongda tanba dabi ni.
8. Hairiba wafam sing asi munna khannaraba matungda eikhoina khanli madudi houjikki leiriba wakat asi yapham thoktea aduga wakat mayoknagadaba mi (respondents) singbu mipha oidringeida pikhiba bail gi rai adu adum lengdana leihanba amasung pao pirakliba (Informant) da sel oina lupa lishing humdra manga (Rs.75,000/-) pigadabadusu pidaba hibasini.
9. Eikhoi na thoudok kayada khangba ngamkhi madudi Criminal gi oiba aain da bail gi matangda khannaba matamda sel louthoknaba/tanbagi matangda oiroidabani adubu houjikki oiriba case asidadi hairiba phibam asi uba phangi.
10. Eikhoina amuk hanna hainingbadi, criminal gi oiba aain asi kanagumba mioi amana mashagi kannanaba Shakti sijinnaba natragana sel louthoknaba sijinnaba yadea, maru oina kannagumbana bail gi darkhas tharakpagi mayokta leiba matamda. Case asigi matangda hangba yaba amasung khannaba yaba haibabu, court ki mafamda leiba praman amadi khudam changdam sing yengduna court ki oiba Shakti sijinnaduna mifa oidringeida natraga mifa oiraba matungda bail asi pigadara natraga piroidara hibaduni. Atopa maong amada hairabada leiriba case asiga mari leinana maral siraba mioi (accused) aduna case asida hairiba senpham sing adu pithoklabasu natraga pigani haiba leirabasu mifa oidringeida bail piba natraga mifa oiraba matungda bail pibagi khannabagi tanja pidaba yai ; amaromdana, hairiba case asiga mari leinana maral siraba meeyoi (accused) aduna case asida hairiba senpham sing

adu pithoklabasu natraga pigani haiba leirabasu mifa oidringeida bail piba natraga mifa oiraba matungda bail piba su yai.

11. Eikhoina maru oina khannagani madudi, apha apun tourakpa yai haibagi chingnaba leiriba mioi aduna case asiga mari leinana hairiba senpham adu mifa oidringeida pithokkani haibagi thajaba pirabasu apha apun leiroi haiba tamba ngamdea. Selthum gi loukhatnabagi/phangnabagi matangdi Civil gi oiba aain na pangthokadabani.
12. Adugisu mathakta, tang 14.11.2022 gi High Court ki rai aduda maral siraba sing aduna lupa lakh taruk (Rs. 6,00,000/-) ki senpham pao piriba mi (houjikki case asigi wakatliba mi) da pibagi wafam thamlakpagi matung inna mayek sengna tari madudi : “.....ashumna thamli madudi, Court asigi co-ordinate Bench na maral siraba mioi maraktagi Vijaya Malviya kouba amana tang 10.03.2022 da 2021 gi Cr. Misc. No. 32384 gi matung inna bail pikhi amasung bail pikhibagi maramna, mahakna Bank Draft oina pao piriba Bimla Tiwary gi mingda kaktuna pao piriba masagi ukil (counsel) gi makhut ta sinnakhi. Maram asina sail adu pao piriba mioi aduda handokhrea haibani”.
13. Mathakta pankhriba tang 10.03.2022 da takhiba rai asina hairiba sail lupa lakh taruk (Rs.6,00,000/-) case asida sakhi subon oibagi machak oijaragasu houjik chathariba case asiga mari leinana court ki maphamda thangatlakpa leitri; adugisu mathakta hairiba lupa lakh taruk (Rs. 6,00,000/-) ki senpham asi maral siraba singdagi wakatliba mi na fanglea haibagi wapham tang 10.03.2022 da takhriba rai asidasu pankhidea.
14. Tang 10.03.2022 gi High Court ki rai makhoigi website ta leiriba asi eikhoina munna khannaraba amasung bhap taraba matungda khangba ngamlea madudi, lupa lakh taruk (Rs. 6,00,000/-) ki senpham asi maral siraba sing aduna Bank Draft oina pijagea haibada houjikki wakatliba mi asina yabiduna High Court ki case khanna neinaringei manungda fangkhi. Tang 10.03.2022 gi order asida hairiba adu makhada piri: “darkhaskari gi ukil (Counsel) gi wapham tarea, pao piriba migi ukil (Counsel) gi wapham tarea, sharkar gi ukil (APP) gi wapham tarea.

Darkhaskari asina Indian Penal Code ki Section 420 amasung 426 amasung D.P. Act ki Section 3/4 gi matung inna dandi fangba yaba case ama panlakpagi matung inna phaba yai haina mahakna chingna ba leikhi.

Sirakliba maralna, haikhiba awunpot pipham thokpa pidabagi ootpa neiba chathabagini.

Darkhaskari (Petitioner) gi ukil (Counsel) na hai madu di leiriba case asida Darkhaskari (Petitioner) bu lanna casekari oina hapchinbani. Mahakna makha tanna hai madudi tang 28.02.2022 da Bimla Tiwari gi mingda kakkhiba lupa lakh taruk (Rs. 6,00,000/-) ki Bank Draft, mashing na (bank draft number) 283114 asi pao piriba mioi (Bimla Tiwari) gi ukil (Counsel) gi makhut ta sinnakhi.

Pao piriba mioi gi ukil (Counsel) na pao piribagi mahut sinduna case adu khanna neinaba (Hearing) matamda laktuna hairiba wapham sing adu yashinnaba puraktuna bank draft adu masana loukhibani.

Mathakta pankhriba wapham sing asi munna khannaraba matungda, mathakta pankhriba darkhaskari asi faraba matamda natraga masana makhagi Court, haibadi Sub Divisional Judicial Magistrate, Patna Sadar, Patna da Jakkanpur da 2018 gi Case No. 346 ka mari leinana ngashidagi hapta mari gi manungda changjaraktuna court asibu pelhannaba lupa lishing tara (Rs. 10,000/-) gi bail bond amasung hairiba senpham asiga mannaba daituwa oiba yaba mioi nattraga potshak ani puthoklabadi mifa oidringeida bail pigani. Hairiba sing asi Cr.P.C. gi Section 438(2) da yaowriba gi matung inna oigani.

15. Maram asina uba fangi madudi, masigi criminal gi wayel asi sel louthoknabagidamak chatthakhibani. Eikhoina yaninge madudi mathakta tang 10.03.2022 da maral siraba mioising aduna pao piriba mioi (houjikki wakatliba mi) da lakh taruk (Rs. 6,00,000/-) pibada loukhiba haibadu High Court ki wayel da yaokhi. Hairiba rai asi eikhoigi mathakta takhiba nattaba maramna eikhoina takhriba rai adugi onnabada puningba mayolda puba yai amadi sel pinabagi wapham aduna maram oiraga bail su piba yai.
16. Tang 10.03.2022 da takhriba rai adu eikhoigi mathakta nattrabasu rai aduda yaoriba sing adubu semdokpa toudana leihanlea aduga tang 14.11.2022 da takhriba rai adu yenglagadi achumba wayel puraknabagi yenglaga lupa lishing Humdra manga (Rs.75,000/-) gi senpham maral siraba mioi ani suba (Respondent No. 2) na pipham thok e. Asumna maral siraba anisuba mioi (Respondent No. 2) na lupa lishing humdra manga (Rs.75,000/-) pihanduna maral siraba mioi pumnamak mipha oidringeida bail piba haibasi lengdrabani.
17. Wapham sing asi munna yenglaba amasung darkar leibasing khanna neinaraba matungda hairiba darkhas asi kakthatlea amadi chatnadrea.
18. Namduna/loishindana leiba darkhas pumnamak loishinlea.

Bibhuti Bhushan Bose

Wakat pumba khannaba loishinlea.