

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50042 of 2014

Arising Out of PS.Case No. -704 Year- 2011 Thana -PURNIA COMPLAINT CASE District-
PURNIA

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Md. Tanvir, son of Md. Musabali, R/o village - Pouri Bishanpur, P.S.
Sadar, District - Purnea

.... Petitioner/s

Versus

1. The State of Bihar.
2. Israt Khatoon, W/o Md. Tanvir, D/o Sk Subrati, R/o Harkholi, P.S.
Dagarua, Dist. Purnea.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dr. Bidhu Ranjan
For the Opposite Party/s : Mr. Lalan Kumar(APP)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 16-07-2015 Heard learned counsel for the parties.

Despite service of notice on the opposite party no.2
and also filing of the Vakalatnama by one Mr. Pramod Kumar
Mallick, an advocate of this Court, no one has appeared on behalf
of the opposite party no.2.

The petitioner, husband, is facing prosecution for
offence under Section 498A of the Indian Penal Code. The
petitioner has also stated in paragraph no.8 that he is ready to keep
the complainant, opposite party no.2, who is his wife, with full
dignity and comfort which she would deserve from the petitioner.

This Court, in fact, having noted the aforesaid
undertaking of the petitioner, had issued notice to the opposite

party no.2. As noted above, the opposite party no.2 is not being represented by her counsel.

Nonetheless, as the learned counsel for the petitioner still has reiterated the same stand of the petitioner that he is ready to keep his wife, opposite party no.2 and that the grievance of the opposite party no.2 in the complaint petition was that she despite willing to live with the petitioners and his family members had been driven away from the home of the petitioner only because of demand of dowry of Rs. 10,000/- from her and her family members, this Court, in order to test the bonafide of both the petitioner and opposite party no.2, would direct the petitioner to surrender before the court below within a period of four weeks from today and in case he does so, he shall be granted provisional bail for a period of three months. after being granted such provisional bail, the petitioner shall immediately go to the house of the opposite party no.2 and take her along with her son to her own house.

After a period of three months, the petitioner along with the opposite party no.2 shall again appear before the court below and if on enquiry from the opposite party no.2, the court below would be satisfied that she was treated well and had been kept with due dignity as undertaken in paragraph no.8 of this

application, his provisional bail shall again be extended but this time for a further period of six months.

Upon completion of a period of six months, the petitioner and opposite party no.2 shall again appear before the court below and now if the court below would find that the opposite party no.2 was not subjected to any further torture/humiliation either physically or mentally, the petitioner's provisional bail shall be confirmed. On the other hand, if there is any substantial complain of ill-treatment by the opposite party no.2 against the petitioner and/or his family members, the provisional bail shall stand cancelled on an enquiry conducted by the court below.

Thus, if the petitioner, namely, Tanvir surrenders before the court below within a period of four weeks from today with an undertaking regarding keeping the opposite party no.2 in his house with due respect and dignity and would also take the opposite party no.2 to his own house, he will be released on provisional bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Purnea in connection with Complaint Case No. 704 of 2011, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following

conditions:-

(i) That both the bailors will be a close relative of the petitioner, who will undertake an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) That the affidavit shall clearly state that the petitioner is not an accused in any other case and if he is, he shall not be released on bail.

(iii) That the bailors shall also state on affidavit that they will inform the court concerned, if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.

(iv) That the petitioner will be well represented on each and every date in course of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

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