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IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 26994 of 2014

Arising Out of PS.Case No. -74 Year- 2014 Thana -BEUR District- PATNA

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Abhay Kumar Singh, aged about 42 years, S/o late Ram Narain Singh, resident of village- Pipra, P.S.- Dumariya, District- Gaya and presently residing at A.G. Colony, P.S.- Shastrinagar, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sudha Singh, Wife of Abhay Kumar Singh, Resident of Mohalla- A.G. Colony, Golden Palace P.S. Shastri Nagar, District- Patna-23.

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL ORDER

9 29-04-2015 Heard learned counsel for the petitioner, learned A.P.P. for the State and learned counsel for the informant.

The petitioner as well as opposite party no. 2 are also personally present in Court. Earlier by order dated 11.09.2014, provisional bail was granted to the petitioner and notice was issued to the opposite party no. 2 who is the informant and wife of the petitioner.

Learned counsel for the petitioner submits that from the reading of the F.I.R., no case is made out under Section 498A of the Indian Penal Code and further that for the last 17 years after marriage, there was no grievance of the petitioner and in fact she was enjoying life on the money provided by the petitioner and when the petitioner asked her

to control her expenditure, in retaliation she has lodged this false case. It is further submitted that after the release in the present case, the petitioner was arrested in Gurgaon in another case at the behest of the opposite party no. 2.

Learned A.P.P. and learned counsel for the informant oppose the prayer for bail and submit that no offence is made out under Section 498A of the Indian Penal Code since the cruelty is writ large inasmuch as the petitioner who is the husband keeping a second wife itself is cruelty of the worse kind specially for a wife. It is submitted that the opposite party no. 2 i.e., his wife was quiet only because she had two kids and came to know of the fact of the second woman just before filing of the F.I.R.

This Court while granting the petitioner provisional bail on 11.09.2014 noted the submission on behalf of the petitioner that the allegation of there being another lady in his life was false. Thereafter, the matter was sent for Mediation on 19.11.2014 and the Court had noted on 16.04.2015 that the Mediation had failed. However, on that day learned counsel for the petitioner had categorically submitted that he was ready to keep the opposite party no. 2 with him as his wife with full dignity, honour and security. However, today the petitioner submits that he shall not be able to keep his wife with him and the ground taken is that she had facilitated in his arrest at Gurgaon even after he was

released on provisional bail in the present case. This Court does not find the stand taken by the petitioner to be fair as first of all the case in Gurgaon was not filed by the wife and secondly even on 16.04.2015, much after his arrest and release in the case at Gurgaon, there was a categorical stand on his behalf that he was ready to keep the opposite party no. 2, i.e., the wife with him and today the stand that he is not ready to keep her clearly indicates that the petitioner was neither fair before the Court at the time provisional bail was granted nor during the Mediation and thereafter also before this Court as is reflected in the previous orders specially that of 16.04.2015. This Court is also conscious of the fact that there is great misuse of the provisions of Section 498A of the Indian Penal Code in the society but from the facts and circumstances of the present case, it cannot be said that the case will come under such a category because prima facie from the allegation of there being another women in the life of the petitioner would definitely amount to cruelty as far as the wife is concerned and such allegation is also indicated by the conduct of the petitioner when before the Court today he is not ready to keep her.

The fact that the petitioner having another woman in his life is further corroborated from the F.I.R. of Beur P.S. Case No. 75 of 2014 dated 16.04.2014 which has been filed by the petitioner, alleging that the brother and other

family members of the opposite party no. 2 had entered into his appartment with a view to kill his wife who has been named as Puja and not the opposite party no. 2.

After considering the matter in entirety and taking note of the submissions of the learned counsel for the parties, the Court is of the opinion that the petitioner does not deserve bail in the present case. Accordingly, the provisional bail granted to the petitioner by order dated 11.09.2014 stands cancelled. The petitioner who is present in Court is directed to surrender before the Court below latest by 2nd May, 2015. A supplementary affidavit enclosing copy of the surrender certificate shall be filed on behalf of the petitioner latest by 6th May, 2015.

The application stands disposed off.

(Ahsanuddin Amanullah, J.)

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