

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18878 of 2015

Arising Out of PS.Case No. -1142 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

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Ashok Yadav @ Ram Narayan Yadav S/o late Mathura Yadav @ Mathura Prasad R/v Alawalpur, P.s - Daniyawa dist- patna . At present Sanjay Hotel, Daniyawa Bazar(Station), P.s - Daniyawa, Distt- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Gauri Devi@Guriya W/o Sri Ashok Yadav@Ram Narayan Yadav R/v Alawalpur, P.s - Daniyawa dist- patna . At present Sanjay Hotel, Daniyawa Bazar(Station), P.s - Daniyawa, Distt- Patna At present tenant in the House of Maurya Mahto, Gulbighat, P.s- Sultanganj, Distt- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha

For the Opposite Party/s : Mr. Rana Randhir Singh(App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 18-06-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under Section 498A of the Indian Penal Code and that the petitioner is said to be the husband of the complainant, this Court is not inclined to grant privilege of anticipatory bail to the petitioner only because he finds fault in the alleged claim and the marriage of the complainant by saying that in the year 2001 when the complainant had entered into marriage with the petitioner, he was already married with one Asha Devi. As a matter of fact, it is now on record in the complaint petition itself that the petitioner is a man of loose character who has entered into several marriages



and in fact after having his first marriage with Asha Devi and four children from such marriage, he had entered into second marriage with the complainant Gauri Devi @ Guriya in the year 2001 and from this marriage also, he has two issues, a son aged about 11 years and a daughter aged about 8 years as on date. In fact, the complainant had settled with her fate but when the petitioner had entered into a third marriage at village Daniawan and had given away the complainant, the present complaint petition was filed.

Learned counsel for the petitioner, however, has tried to take help of the stand made in paragraph no.13 of the application according to which the marriage of the petitioner with the complainant cannot be supported by any marriage certificate and, as such, the whole claim of the complainant of being his wife has to be disbelieved. The petitioner also wants to take advantage that there was already a subsisting marriage when the complainant had allegedly been married to the petitioner and, thus, the second marriage is void as per the Hindu law.

Such averments has to be noted for its being rejected because the complainant in the solemn affirmation before the court below has clearly stated that she was duped into the second marriage by making a false impression that the petitioner was never married. The moment this element is available, the marriage

of the complainant cannot be questioned much less on the basis of want of certificate. Any Hindu marriage is never registered to give the sanctity of the marriage.

That being so, this Court is satisfied that not only the complainant is a legitimate and bonafide wife of the petitioner but also has a right to be maintained by the petitioner.

When such an observation has been made, learned counsel for the petitioner has come out to say that he will be ready to support his wife and two children out of the marriage with the complainant.

While this Court was not inclined to grant privilege of anticipatory bail to such a person like the petitioner but, then, if the life of the complainant and her two children has to be saved, this Court would accept the submission of the learned counsel for the petitioner provided the petitioner pays a sum of Rs. 6,000/- per month commencing from the month of June, 2015.

That being so, if the petitioner, namely, Ashok Yadav @ Ram Narayan Yadav would surrender before the court below within a period of four weeks from today and gives a written undertaking to pay a sum of Rs. 6,000/- per month commencing from the month of June, 2015 till the end of the trial of the present complaint case, he shall be enlarged on bail on furnishing bail



bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Sub Divisional Judicial Magistrate, Patna City in connection with Complaint Case No. 1142(C) of 2013, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

- (i) The petitioner must deposit a sum of Rs. 6,000/- per month in the bank account to be furnished by the complainant opposite party no.2 and failure to deposit even a single installment within the prescribed time limit shall automatically entail consequence of cancellation of the bail of the petitioner.
- (ii) 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.
- (iii) 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.
- (iv) 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.

(v) 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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