

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18793 of 2015

Arising Out of PS.Case No. -1102 Year- 2012 Thana -GAYA COMPLAINT CASE District- GAYA

Mukesh Kumar @ Mukesh Yadav son of Om Prakash Yadav, resident of Village- Ninani Tola Manikchak, Police Station- Mohanpur and District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Munna Devi wife of Mukesh Yadav, resident of Village- Ninani Tola Manikchak, Police Station- Mohanpur and District- Gaya. At present Daughter of Khiru Yadav, resident of Village - Maharam Bigha, Police Station- Fatehpur, District- Gaya.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar No-2

For the Opposite Party/s : Mr. Indu Bala Panday(App)

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 17-06-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation against the petitioner for offence under Sections 498A and 494 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act, this much becomes clear that the marriage of the petitioner with the O.P. No. 2, though admitted, has now been on rocks because of the petitioner either having extra marital relationship or even entering into the alleged second marriage. In such a situation, the petitioner cannot escape from his liability towards the O.P. No. 2 at least till the trial of the petitioner is concluded.

In that view of the matter, if the petitioner is desirous of getting of privilege of anticipatory bail, he must support his

wife/O.P. No. 2 by providing her a sum of Rs. 5,000/- per month till conclusion of the trial.

Therefore, if the petitioner, namely, Mukesh Kumar @ Mukesh Yadav surrenders within a period of four weeks from today and gives an undertaking of paying Rs. 5,000/- per month to the O.P. No. 2 from the month of June 2015 onwards by every 5th day of next month, he shall be released on bail on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Sub Divisional Judicial Magistrate, Gaya in connection with Complaint Case No. 1102 of 2012, subject to the following conditions:

- (i) That monthly deposit of Rs. 5,000/- commencing from June 2015 by the petitioner to the O.P. No. 2 in the bank account details whereof shall be furnished by complainant opposite party no. 2 to the court below within two weeks of receipt of this order and such deposit of monthly amount of Rs. 5000/- shall be made without fail by every 5th day of the next month, till the conclusion of the trial. It is, also made clear that on failure of payment, even of a single instalment within the prescribed time, shall automatically

entail the consequence of cancellation of the bail.

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- (ii) It goes without saying that the sum of Rs. 5000/- is only tentative amount and it would be always open for the O.P. No. 2 to claim even a higher amount if she can satisfy the family court that the petitioner has capacity to pay more for the maintenance of his wife.
 - (iii) That both the bailors will be close family relatives 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.
 - (iv) That the affidavit shall clearly state that the petitioner is not accused in any other case and if he is, he shall not be released on bail.
 - (v) 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 his

bail on the ground of misuse.

- (vi) 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)

Sujit/-

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