

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39580 of 2014

Arising Out of PS.Case No. -22 Year- 2014 Thana -MAHILA PS District- GAYA

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Om Prakash Kumar Azad @ Om Prakash Azad Son of Vijay Kumar Yadavf
@ Vijay Yadav Resident of Village - Sarhahda, Police Station - Khijarsarai,
District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Neelam Kumari Daughter of Ram Pravesh Yadav Resident of Village -
Karma, Police Station - Koach, District- Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Roy

For the Opposite Party/s : Mr. Tapeswar Sharma(App)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

04/ 14-07-2015

Heard learned counsels for the petitioner and
the State.

The petitioner being the husband of the
informant is apprehending his arrest in a case registered for the
offences punishable under Section 376, 493, 498A, 323/34 of the
Indian Penal Code and 3/4 of Dowry Prohibition Act.

The accusation is of establishing physical
relationship on promise of marriage. Subsequently after the
marriage being performed in a temple the demand of dowry was
made.

On the joint request of the parties the matter

was referred to the Mediation Centre of State Legal Services Authority vide order dated 20.02.2015. The report of the Mediator dated 14.05.2015 suggests that none of the parties appeared before the Mediator. Though, it is submitted by learned counsels for the petitioner and the informant that both appeared.

Learned counsel for the petitioner submits that the petitioner denies the factum of marriage and there is nothing on the record, particularly, the injury report to suggest that the informant was ravished. The petitioner claims to be a married person from before.

It is submitted by learned counsel for the informant that the informant claims to have married in a temple and the document to that effect has been brought on the record. Subsequent to the marriage the informant was tortured for non-fulfillment of the dowry demand, though, initially the physical relationship was established on promise of marriage. It is further submitted by learned counsel for the informant that the petitioner admitted the factum of marriage while filing the application for anticipatory bail before the learned Sessions Judge.

It is submitted by learned counsel for the petitioner any such statement in the bail application before the learned court below was contrary to his instruction.

Considering the fact that the factum of marriage is in dispute, let the above named petitioner be released on anticipatory bail provisionally for six months in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gaya in connection with Gaya Mahila P.S. Case No. 22 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Let the learned court below conduct an enquiry with regard to the factum of the marriage of the petitioner with the informant. If the learned court below comes to a conclusion that the petitioner was never married with the informant then the provisional bail will be confirmed by the learned court below, but if the learned court below comes to a conclusion otherwise then the petitioner will surrender and pray for regular bail.

(Dinesh Kumar Singh, J)

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