

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36806 of 2014

Arising Out of PS.Case No. -100 Year- 2014 Thana -MAHILA P.S. District- SIWAN

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Dr. Seraj Ahamad @ Seraj Ahmad, son of Late Dr. Mansoor Ahamad,
resident of Village Mohammadpur, P.S. Bhagwanpur, Dist. Siwan.

.... Petitioner/s

Versus

1. State of Bihar.
2. Mahwash Jahan, Wife of Seraj Ahmad, D/o Shohail Ahmad, Resident
of Ismail Shahid Takiya, P.S. Siwan (Town), Dist. Siwan.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amir Alam

For the Opposite Party/s : Mr. G.S. Gupta (APP)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

6 19-08-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under Section 341, 343, 406, 498(A) of the Indian Penal Code and that the opposite party no.2, the wife of the petitioner, having a child, is still without any support and that on account of her horrid experiences of both mental and physical torture in the hands of the petitioner, her husband, it is not possible for her to live with the petitioner, this Court, keeping in view that the efforts of conciliation in the process of mediation has already failed, is not inclined to grant privilege of anticipatory bail to the petitioner.

This court, in fact, had given time to the learned counsel for the petitioner to make the petitioner agreeable as with regard to giving some financial support to the opposite party no.2 till the

end of the trial but learned counsel for the petitioner has now come out to say that the petitioner would now like to go for divorce as the opposite party no.2 does not want to live with the petitioner.

In such circumstances, the petitioner has two options, firstly to go for divorce as per the Mohammedan law in which he or opposite party no.2 shall be getting divorced as is permissible in law or secondly, if the petitioner wants to continue with the interim protection which has been given to him under the order of this Court dated 20.2.2015, he must deposit a sum of Rs. 8,000/- per month keeping in view the status of the petitioner, inasmuch as, according to the learned counsel for the petitioner, the petitioner is a salesman but, according to the learned counsel for the opposite party no.2, he is practicing in the field of indigenous medicine and also maintaining a car.

That being so, if the petitioner, namely, Dr. Seraj Ahmad @ Seraj Admad surrenders before the court below within a period of six weeks from today and gives an undertaking to pay a sum of Rs.8,000/- per month, the court below shall grant bail to the petitioner 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, Siwan in

connection with Siwan Mahila P.S. Case No. 100 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

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- (i) The petitioner must keep on depositing the aforesaid sum of Rs. 8,000/- per month from the month of August, 2015 and till the end of the trial in the bank account of the opposite party no.2 and failure to deposit such monthly amount by 5th day of the next month shall automatically entail the consequence of cancellation of his bail.
 - (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.

It is, however, made clear that in the event the petitioner does not appear within a period of six weeks from today, the interim protection given to him under the order of this Court dated 20.2.2015 shall automatically stand revoked and thereafter he would be taken into custody leaving him with the option for making a prayer for grant of regular bail which of-course shall be decided on its own merit without being influenced by anything said in this order.

With the aforesaid observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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