

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50057 of 2014

Arising Out of PS.Case No. -2314 Year- 2013 Thana -SARAN COMPLAINT CASE District-
SARAN

Subash Sharma, son of Late Raghunath Sharma, Resident of Mohalla -
Naviganj, P.S. Bhagwan Bazar, District - Saran

.... Petitioner/s

Versus

1. The State of Bihar
2. Punam Devi wife of Subhash Sharma, daughter of Kamakhya Sharma
Resident of village - Nayagaon, P.S. Nayagaon, District - Saran

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Bhushan Prasad Sinha, Advocate.

For the Opposite Party/s : Mr. Ramesh Chandra, APP

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 16-07-2015

Heard learned counsel for the parties.

The petitioner faces prosecution for offence under
Sections 323, 341, 380, 498-A, 504 and 506 of the Indian Penal
Code and under Sections 3 and 4 of the Dowry Prohibition Act.

Learned counsel for the petitioner submits that the
petitioner, being the husband of the complainant, has undertaken
to maintain his wife and child with full respect and dignity as they
would deserve in his hand, he should be granted anticipatory bail.
He has also submitted that the apprehension of O.P. No. 2 that
petitioner is not prepared to have relationship with the O.P. No. 2
on account of his filing a divorce case is also misplaced because
since the O.P. No. 2 had deserted the petitioner, such a divorce

case was filed but now when an undertaking is given by the learned counsel for the O.P. No. 2 before this Court that she would live with the petitioner, the divorce petition filed by the petitioner, pending in the Family Court, shall be withdrawn within a period of four weeks from today.

On such an undertaking given with regard to withdrawal of the divorce petition, learned counsel for the O.P. No. 2, has submitted that O.P.No. 2, the wife, shall be ready to go to the house of the petitioner and live with the petitioner provided that she is at least given due care and respect which a wife would deserve in the hands of the husband.

Considering all these aspects, this Court would find the petitioner entitled for grant of privilege of anticipatory bail.

That being so, if the petitioner namely Subhash Sharma surrenders within a period of six weeks from today, he shall be released on provisional bail for a period of three months 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, Chapra(Saran) in connection with Complaint Case No. 2314 of 2013, Tr. No. 2688/2014, subject to the following condition:

- (i) That the petitioner shall withdraw the divorce

case within a period of four weeks from today and would produce the order of withdrawal at the time of his surrender before the court below which he also must do within a period of six weeks from today.

- (ii) At the time of surrender, the wife/O.P.No. 2 shall also remain present in the court and after the petitioner gives an undertaking not only with regard to having already withdrawn the divorce case but also of keeping the wife/O.P. No. 2 with due dignity and will take her alongwith him after grant of provisional bail, he will be granted provisional bail only for a period of three months.
- (iii) After of a period of three months of his provisional bail, the petitioner along with his wife/O.P. No. 2 shall again appear before the court below and if on enquiry from the O.P. No. 2, it is found that she was not subjected to any physical or mental torture by the petitioner, his such provisional bail shall be extended for a period of six months.

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- (iv) Upon completion of aforesaid period of six months of provisional bail, the petitioner shall again appear alongwith his wife/O.P. No. 2 before the court below and if the court below is satisfied that the O.P. No. 2 was not subjected to any physical or mental cruelty by the petitioner, his such provisional bail shall be confirmed by the court below.
- (v) It is also made clear that if at any point of time, it is found by the court below that the petitioner had misbehaved with the O.P.No. 2, the bail granted to him shall be cancelled and she shall taken into custody but only after holding an enquiry and giving an opportunity of hearing to the petitioner.
- (vi) 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.
- (vii) 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.

- (viii) 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.
- (ix) 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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