

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51171 of 2015

Arising Out of PS.Case No. -189 Year- 2010 Thana -MADHUBANI COMPLAINT CASE District-
MADHUBANI

Dukha Paswan Son of Late Bishun Paswan Resident of Village Bhuptiyahi,
P.S.- Laukahi, District Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Gamla Devi Wife of Dukha Paswan Resident of Village- Bhupatiyahi,
P.S. Laukahi, District Madhubani.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav

For the Opposite Party/s : Mr. M.K.Khare(App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

04/ 18-12-2015

Heard learned counsels for the petitioner
and the State.

The petitioner being the husband of the
complainant is apprehending his arrest in a complaint case
wherein processes have been directed to be issued after
cognizance being taken for the offences punishable under
Sections 498A and 323 of the Indian Penal Code.

The basic accusation is of torture.

It appears from the impugned order that
the anticipatory bail application has been disposed of by learned

3rd Additional Sessions Judge on the ground that only summons have been issued, hence, the petitioner has no apprehension of arrest.

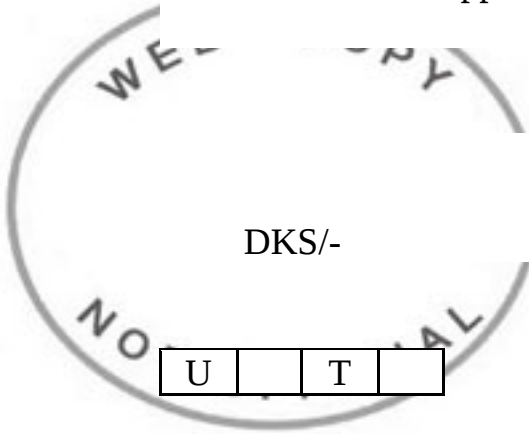
It is submitted by learned counsel for the petitioner that the petitioner was earlier granted provisional anticipatory bail and he furnished bail bonds and thereafter his bail bonds were cancelled since he failed to make payment in pursuance to the order.

In view of the fact that the petitioner has already executed bail bonds, he is deemed custody of the court, hence, the present anticipatory bail application is not maintainable in view of the ratio laid down in the case of Mahendra Prasad Singh Vs. State of Bihar, reported in 2004(3) PLJR, 491.

Let the learned court below consider the prayer for regular bail of the petitioner in view of the ratio laid down in the case of Mahendra Prasad Singh Vs. State of Bihar, reported in 2004(3) PLJR, 491 in connection with Complaint Case No. 189 of 2010 pending in the court of learned Judicial Magistrate, Ist Class, Jhanjharpur, Madhubani.

It is made clear that bail can only be denied in a case of misuse.

With the aforesaid observation, this application is disposed of.



(Dinesh Kumar Singh, J)