

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23327 of 2015

Arising Out of PS.Case No. -1042 Year- 2014 Thana -WEST CHAMPARAN COMPLAINT
District- WESTCHAMPARAN(BETTIAH)

Kasphudoza @ Kalu @ Kasphuddopa @ Kalu Walha S/o Shamshair Alam
@ Buchchi Mastar Resident of Village Main Road, Narainapur, Durga
Nagar, P.S. Ramnagar, District West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Azmat Tanvir D/o Nasrullah Master Resident of Village Raybari,
Mahuawa, P.S. Chautarwa, District West Champaran.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Akhileshwar Kumar Shrivastva
For the Opposite Party/s : Mr. Indu Bala Pandey(App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

03/ 12-10-2015

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 323 and 498A of the Indian Penal Code.

The basic accusation is of torture.

The marriage between the petitioner and the complainant and birth of a female child are admitted facts.

It is submitted by learned counsel for the

petitioner earlier a complaint was filed with similar accusation which ended into compromise. The petitioner also filed a matrimonial suit for restitution of conjugal rights that was also compromised, but when the complainant deserted the petitioner then the petitioner gave oral Talak to the complainant and filed Matrimonial Suit No. 349 of 2014 for confirmation of oral Talak.

The counsel for the complainant submits that the complainant denied the factum of Talak and is ready to resume the conjugal life.

Considering the fact that the factum of Talak is in dispute, let the above named petitioner be released on anticipatory provisionally for six months bail 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 Additional Chief Judicial Magistrate, Bagaha, West Champaran in connection with Complaint Case No. 1042-C of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Let the learned court below decide the factum of oral Talak. If the learned court below comes to a finding that the

petitioner has already given oral Talak to the complainant then the provisional bail will be confirmed by the learned court below, but if the learned court below comes to a finding otherwise then the petitioner will surrender and pray for regular bail.



DKS/

(Dinesh Kumar Singh, J.)

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