

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33208 of 2014

Arising Out of Complaint Case No. 1205 of 2013, Thana -NAWADAH
District- NAWADA

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Manzar Alam @ Md. Manzar Alam son of Md. Salim Miya, resident of
village Partapur, P.S. Rajauli, Dist. Nawada

.... Petitioner

Versus

1. The State of Bihar
2. Nuresha Khatoon, D/o Abdul Rahman, resident of village Chamotha,
P.S. Rajauli, District Nawada

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad
For the Opposite Party/s : Mr. Anuj Kumar Srivastava (App)
For the informant : Mr. Arjun Prasad

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI
ORAL ORDER

4 04-02-2015 This is an application, made under Section 438 Cr.P.C.,

seeking pre-arrest bail by the petitioner, namely, Manzar Alam @

Md. Manzar Alam, in connection with Complaint Case No. 1205

of 2013, under Sections 489A of the IPC and Section 4 of the

Dowry Prohibition Act.

Perused the above application and materials on record

including a copy of the order, dated 22.04.2014, passed, in A.B.P.

No. 85/2004, by the learned Sessions Judge, rejecting the said

application for pre-arrest bail.

Heard Mr. Krishna Pd. Singh, learned Senior counsel for

the petitioner, and Mr. Amit Kr. Rakesh, learned APP, appearing

for the State.

The High Court, while exercising its powers under

Section 438 Cr.P.C., stands on the same footing as does a Sessions

Judge inasmuch as a High Court and Sessions Judge have coordinate the jurisdiction, while exercising power under Section 438 Cr.P.C.

For rejecting the petitioner's application seeking pre-arrest bail, the learned Sessions Judge has recorded the reasons as follows:

“Both have appeared in the chamber of this court for reconciliation and during course of reconciliation the complainant has stated that the petitioner used to torture and assaulted her after acquittal in earlier case on the basis of compromise and so due to fear the complainant does not want to go with the petitioner, for which the petitioner kept mum and meekly followed the statements of the complainant. It appeared to this court that there is specific allegation of torture and assault attributed against the petitioner, therefore, the instant application for anticipatory bail stands rejected.”

From what have been recorded by the learned Sessions Judge, it appears that before the present complaint case was instituted against the petitioner under Section 498A IPC and Section 4 of the Dowry Prohibition Act, 1961, a complaint was made by the present complainant alleging that she had been subjected to cruelty, but the said case was compromised and pursuant thereto, the complainant went to her matrimonial house, but thereafter also, according to the complainant, the conduct of

the petitioner did not change and he continued to assault her and subject her to cruelty and, therefore, she was unwilling to go back to her matrimonial house.

Situated thus, this Court does not find any infirmity in the order, dated 22.04.2014, passed by the learned Sessions Judge, whereby the petitioner's prayer for pre-arrest bail has been rejected.

Because of what have been discussed and pointed out above, this Court does not find that the petitioner has been able to make out any case calling for extending to him the benefit of pre-arrest bail.

In the result and for the forgoing reasons, the prayer for pre-arrest bail is hereby rejected.

The petitioner shall, however, remain at liberty to appear in the learned Court below and if, upon his appearance, in connection with Complaint Case No. 1205 of 2013, he applies for regular bail, his application for bail shall be considered and disposed of in accordance with law.

This bail application shall stand disposed of accordingly.

(I. A. Ansari, J)

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