

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6469 of 2015

Arising Out of PS.Case No. -143 Year- 2013 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

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Rajesh Kumar @ Rajesh Kumar Gupta Son of Shri Birendra Sah resident of
village- Lohadiya P.S.- Darpa District- East Champaran.

.... Petitioner

Versus

1. The State of Bihar.

2. Ranjita Devi Wife of Rajesh Kumar daughter of Raj Kumar Sah resident of
village- Narkatiya Bazar, P.S.- Darpa, District- East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Shankar Shrivastava

For the Opposite Party/s : Mr. Shailendra Kumar No.1(App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL ORDER

4 13-08-2015

Heard learned counsel for the parties.

2. The petitioner being the husband facing prosecution for
offence under sections 323, 341, 498A/34 of the Indian Penal
Code has moved this Court for grant of anticipatory bail on the
ground that the petitioner was always ready to keep his wife-
O.P.No.2 and in fact for this purpose he had also filed a
matrimonial case by way of restitution of conjugal right even prior
to filing of the complaint case in hand.

3. This Court in fact having noted a similar submission has
issued notice to O.P.No.2 but somehow that has not been served
and there is no direct proof of service of notice because the notice
has been only treated to be deemed to have been served on
account of alleged refusal to O.P.No.2 in token of receipt of
notice.



4. Under such circumstances, this Court would direct the petitioner, Rajesh Kumar @ Rajesh Kumar Gupta, to surrender before the court below within a period of four weeks from today after giving prior notice to the counsel for the Opposite Party No. 2 of the date of his surrender and the requirement of the presence of the Opposite Party No. 2 in the Court below on that date. On such day of surrender of the petitioner, wife complainant-O.P.No.2 shall also remain present and the court below shall hear both the petitioner and the complainant in Chambers and if it finds that the attitude of O.P.No.2 is unreasonable and that she deliberately does not want to live with the petitioner without any justified reasons, petitioner shall be granted bail but on the other hand, if it is found that the petitioner is one who has created impediment in conjugal life of O.P.No.2 and in fact has been feigning harmony by way of filing a case for restitution of conjugal right, the prayer for bail of the petitioner shall be rejected and thereafter he will be taken into custody.

5. It is made clear, that if on the day on which the petitioner surrenders with prior intimation to the learned counsel for O.P.No.2, and if the O.P.No.2 does not appear or after appearing seeks time to consider the offer of the petitioner to live together, the petitioner shall be granted provisional bail for one

month whereafter the aforesaid order shall be complied by the Court below.

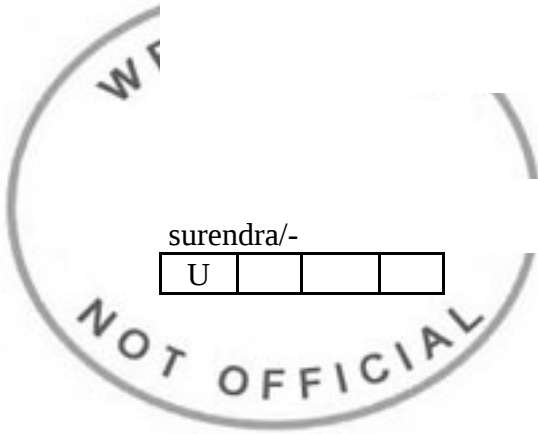
6. It is also made clear that if the petitioner and Opposite Party No. 2 agree to live together, the Court below shall grant provisional to the petitioner for a period of six months and would watch the conduct of the petitioner towards the Opposite Party No. 2 and only on being satisfied that the Opposite Party No.2, shall no longer given any mental or physical torture by the petitioner and/or his family members shall confirm the aforesaid provisional bail of the petitioner on the following terms and conditions:-

(i) That both the bailors will be close relative of the petitioner who will give 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.

(ii) 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.

(iii) That the petitioner will be well represented on

each and every date 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)