

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18000 of 2015

Arising Out of PS.Case No. -348 Year- 2014 Thana -MUZFFARPUR COMPLAINT CASE District-
MUZAFFARPUR

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Mukesh Mahto S/o Khaderan Mahto R/o village- Vaishali, P.S.- Vaishali,
District- Vaishali

.... Petitioner/s

Versus

1. The State of Bihar.

2. Sangeeta Devi, W/o Mukesh Mahto & D/o Nawal Mahto A/P, resident of
village- Chak Gulam Mahmad, P.S- Karza, District- Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar @ S.K., Advocate.

For the Opposite Party/s : Mr. Ram Naresh Roy (App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 17-08-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under Sections 307, 379, 406, 420, 498A, 504 and 511 of the Indian Penal Code and Section 3 and 4 of the Dowry Prohibition Act and the fact that the petitioner is the husband who is said to have caused both physical and mental torture to his wife i.e. O.P. No. 2, this Court is not inclined to grant privilege of anticipatory bail specially when learned Sessions Judge has also found in the order rejecting the prayer of anticipatory bail of the petitioner that when an effort of conciliation was made and the O.P. No. 2 had gone to the petitioner at Kolkatta where the petitioner was/is working as a Pump Manager in a Fuel Service Station, she was again physically assaulted even when she was pregnant at that point of time.

In that view of the matter, the submission made by learned

counsel for the petitioner that yet another effort should be made for conciliation because the petitioner is now ready to live with his wife O.P. No. 2, will have no meaning and purpose specially when now the O.P. No. 2 on account of previous experience in the hands of the petitioner and his family members, has also apprehension of her live in the hands of the petitioner.

Thus, when this Court was not inclined to grant privilege of anticipatory bail, learned counsel for the petitioner has submitted that no useful purpose will be served by forcing the petitioner to go to jail inasmuch as he would be ready to support the O.P. No. 2 by paying a sum of Rs. 1500/- per month till the end of the trial.

This Court however would find a sum of Rs. 1500/- per month to be wholly inadequate and meager and thus keeping in view that the petitioner now wants to financially support the O.P. No. 2/the wife as also a child out of the marriage till the end of trial pending against him, this Court would fix such amount to be paid by the petitioner to be Rs. 3000/- per months payable from March 2014 and till the end of trial.

That being so, if the petitioner namely Mukesh Mahto surrenders within a period of four weeks from today and gives an undertaking to pay a sum of Rs. 3000/- per month commencing from the month of March, 2014 till the end of the trial, he shall be released on bail on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate,

Ist Class, Muzaffarpur, in connection with Complaint Case No. 348 of 2014, Tr. No. 4208 of 2014, subject to the following condition:

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- (i) The petitioner on the date of surrender shall deposit the arrears of amount for the period March 2014 to August, 2015 @ 3000/- per month by a bank draft in the name of O.P. No. 2 which shall be handed over by the court below to the O.P. No. 2.
 - (ii) The monthly amount of Rs. 3000/- commencing from September 2015 and till the end of trial shall be deposited by the petitioner in the court below and on failure to deposit even a single monthly instalment by the petitioner, it will entail the automatic consequence of cancellation of his bail
 - (iii) On such deposit of Rs. 3000/- per month by the petitioner in the trial court, the same shall also be paid to his wife, the complainant, O.P. No. 2 and she will have a right to also bring to the notice of the trial court as with regard to default of any payment in the monthly instalment by the petitioner.
 - (iv) Such amount of Rs. 3000/- per month will also be subject to enhancement in the event the O.P. No. 2 will lead evidence in any other appropriate proceeding of maintenance/matrimonial dispute by adducing evidence of monthly income of the

petitioner from his all known source.

- (v) 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.
- (vi) 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.
- (vii) 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.

Sujit/-

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(Mihir Kumar Jha, J)