

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18843 of 2015

Arising Out of PS.Case No. -1619 Year- 2013 Thana -VAISALI COMPLAINT CASE District-
VAISHALI(HAJIPUR)

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Md. Naushad Son of Late Md. Soyeb, Resident of Village - Chainpur
Bangra, P.S. - Maniyari, District - Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Amana Khatoon, Wife of Md. Naushad Alam, Resident of Village -
Jalalpur Gangti, P.S. - Mahua, District - Vaishali.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Smt. Anuradha Singh
For the Opposite Party/s : Mr. Prem Kumar Jha (App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 17-06-2015 Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, this Court would find that the petitioner, the husband, has the audacity to say that both the children from his wife, opposite party no.2, are illegitimate, this Court would find that the marriage has virtually failed and, therefore, the offer of the petitioner that he is now ready to live with his wife and the children is a mere pretence only to get the privilege of anticipatory bail. This Court, therefore, is not inclined to grant privilege of anticipatory bail to the petitioner unless he comes out to support his wife and children financially for the time being till conclusion

of the trial.

Learned counsel for the petitioner, faced with the situation, has submitted that the petitioner would be ready to pay any reasonable amount for maintenance of his wife and two children.

This Court, therefore, would fix such amount to be Rs. 6,000/- per month which has to be paid by the petitioner without fail.

That being so, if the petitioner, namely, Md. Naushad surrenders before the court below within a period of four weeks from today and gives a written undertaking to pay a sum of Rs. 6,000/- per month to his wife, opposite party no.2 promptly by every 5th of the next month commencing from the month of June, 2015, he shall be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Sub-Divisional Judicial Magistrate, Vaishali at Hajipur in connection with Tr. No. 3010 of 2014 arising out of Complaint Case No. 1619 of 2013, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

(i) The payment of amount of Rs. 6,000/- per month must be made in the name of the opposite party no.2 either by a bank draft

or in the bank account of the opposite party no.2 by every 5th of the next month failing which the bail granted to the petitioner shall become liable to be cancelled.

(ii) 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.

(ii) That the affidavit shall clearly state that the petitioner is not an accused in any other case and if he is, he shall not be released on bail.

(iii) 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.

(iv) 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.

(Mihir Kumar Jha, J)

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