

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5959 of 2015

Arising Out of PS.Case No. -1659 Year- 2009 Thana -ROHTAS COMPLAINT CASE District-
SASARAM (ROHTAS)

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Aftab Alam @ Md. Aftab S/O Sayed Allfauddin Chishti Resident of
Mohalla-Sadih,P.O+P.S-Biharshariff,Distt-Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. Farida Parveen@Fami W/O Aftab Alam,D/O-Naseehiuddin R/O
Mohalla-Bartalla,P.S-Sasaram,Distt-Rohtas

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhereshwar Prasad Gupta, Adv
For the Opposite Party No.2 : Mr. Ravi Shankar Sahay, Adv
For the State : Mr. Tarun Prasad Mandal, APP

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

4 21-05-2015 Heard learned counsel for the parties as with

regard to the prayer of the petitioner for grant of

anticipatory bail in connection with the offences

punishable under Sections-498A of the Indian Penal

Code and Section-4 of the Dowry Prohibition Act.

2. Let it be noted that in view of the statement

given by the petitioner in this application for grant of

anticipatory bail filed on 10.02.2015, that he was ready

to keep his wife, Opposite Party No. 2 with all due care

and dignity that this Court had issued notice to Opposite

Party No. 2.

3. Today, when learned counsel for Opposite Party No. 2, has appeared and has produced the plaint of divorce case (Suit No. ML/710/2014 filed on 27.08.2014 in the court of ADJ North/Rohini Court/Delhi), it becomes very clear that the petitioner had given a false statement before this Court making himself and the person who had sworn the affidavit, Saiyad Ekbal Chishti, the brother of the petitioner, liable for being proceeded and punished for committing purgery.

4. Let it be also noted that this complaint case was filed in the year 2009 and since then the petitioner-husband has been absconding. In the year, 2014, he had filed a divorce case at Delhi and thereafter has come out to pray for anticipatory bail initially before the Sessions Judge and after that before this Court.

5. In that view of the matter, it would be very difficult for this Court to believe that the statement given today by the petitioner that he is ready to keep his wife,



Opposite Party No. 2, with all care and dignity. Let it be noted that Opposite Party No. 2, today is not having only her own concern but also liability of the two children born out of this marriage with the petitioner.

6. Faced with this situation, that the petitioner would not only be taken into custody in connection with present case but also punished for committing purgery before this Court, learned counsel for petitioner on being instructed has submitted that the petitioner would now be prepared to withdraw the aforesaid divorce case as also take his wife, Opposite Party No. 2 along with two children to Delhi where he is residing at present for living together with them and keeping them with all respect and dignity that the wife and children would deserve in the hands of the husband/father.

7. Considering the aforementioned offer made by learned counsel for the petitioner, this Court would direct that if the petitioner namely, **Aftab Alam @ Md. Aftab** surrenders within a period of four weeks from



today, he would be released on provisional bail for a period of three months on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of **S.D.J.M. Sasaram Rohtas** in connection with **Complaint Case No. 1659 of 2009** on the following terms and conditions:-

(i) The petitioner shall surrender before the Court below on which date the wife, Opposite Party No. 2 shall also remain present in the Court and if the petitioner gives a written undertaking for keeping his wife, opposite Party No. 2 along with the children with due respect and dignity, the petitioner will be granted provisional bail initially for a period of three months.

(ii) The petitioner at the time of appearing for extension of his provisional bail after expiry of period of three months, shall produce the ordersheet of withdrawal

of the divorce case filed by him in Rohini Court at Delhi

(iii) After expiry of period of three months the petitioner and Opposite Party No. 2 shall again appear before the Court below and the trial Court will make inquiry from Opposite Party No. 2, the wife, as to whether she was subjected to any cruelty, mental or physical by her husband or his family members. In the event of an answer in negative the provisional bail of the petitioner shall be extended this time for a period of six months but in the event of answer in affirmative by opposite party no. 2 the provisional bail of the petitioner shall be immediately cancelled and he would be taken into custody.

(iv) A similar exercise shall be again undertaken by the Court below this time on



expiry of the period of six months and only when the court below is fully satisfied that the petitioner had treated his wife and children with due dignity and respect that his provisional bail shall be confirmed.

(v) It is also made clear that at any point of time if the Wife Opposite Party No. 2 alleges that she was subjected to any cruelty, mental or physical by her husband or his family members, the bail of the petitioner on conducting an enquiry by the Court below shall be liable to be cancelled.

(vi) 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.

(vii) 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.

(viii) 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.

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(Mihir Kumar Jha, J)