

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15814 of 2015

Arising Out of PS.Case No. -3065 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Vinayak Vats S/o Dr. Abhoy Shankar, R/o Flat No. 7C, Nivediate
Enclave A-6, Paschim Vihar, New Delhi

.... Petitioner/s

Versus

1. The State of Bihar
2. Smita Kumari D/o Shri Ravinder Kumar R/o Janki Complex, Flat No.
201, RK Avenue, Rajender Nagar, Patna, PS- Kadam Kuan, District-
Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar @ Alok Kr Shahi
For the Opposite Party/s : Mr. Sunil Kr. Pandey (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 07-12-2015

Heard learned counsel for the parties.

Petitioner being husband of the complainant,
at present being posted as Field Officer, Research and Analysis
Wing, Ministry of Home Affairs, has renewed his prayer for
anticipatory bail in a complaint case wherein processes were
directed to be issued after cognizance being taken for the
offences punishable under Section 498A of the Indian Penal
Code and 4 of the Dowry Prohibition Act.

The basic accusation is of torture for non-
fulfilment of dowry demand.

The marriage between the petitioner and the
complainant having no issue is admitted fact.

The prosecution case is that the marriage

between the petitioner and the complainant was performed on 23.1.2011 at Satkar Hotel in accordance with the Hindu rites and rituals when huge amount of money was spent but subsequently, a further demand of dowry of rupees ten lacs was made and the complainant was sent back to her parents house at Patna on 25.3.2011. Hence, with the accusation of torture for non-fulfillment of dowry demand the complaint was filed on 15.11.2011 and consequently process was directed to be issued after cognizance being taken under Section 498A IPC and Sections 3 and 4 of Dowry Prohibition Act.

This matter has a chequered history.

In the first round the petitioner preferred anticipatory bail application vide Cr. Misc. No. 18348 of 2013 when the matter was referred to the Mediation & Conciliation Centre of the State Legal Services Authority on the joint prayer of the parties, but the issue could not be resolved as petitioner was ready to make payment of permanent alimony on dissolution of marriage but the complainant was only ready for resumption of conjugal life. In the circumstance, the earlier anticipatory bail application was disposed of vide order dated 19.08.2014 with liberty to the learned Court below to consider the prayer for regular bail of the petitioner, keeping in view of the fact that within few months of marriage the complaint was filed. The above order of this Court was challenged in Special Leave to Appeal(Crl.) No(s). 7253 of 2014 before the Apex Court

which was finally disposed of vide order dated 09.03.2015 when the Apex Court refused to interfere with the earlier order of this Court, however extended the stay of arrest for three weeks and in the meantime, liberty was given to the petitioner to file a fresh application under Section 438 of the Code of Criminal Procedure before learned Sessions Judge. The order of the Apex Court reads as follows:-

“Having perused the impugned order, we find no justification whatsoever to interfere with the same, except to the extent that we would extend the effect of the order passed by this Court on 08.10.2014 for a further period of three weeks. If the petitioner files an appropriate application before the competent Court seeking bail under Section 438 of the Code of Criminal Procedure, within one week from today, the competent Court shall dispose of the said application in accordance with law within a further period of two weeks.

Needless to mention, that the competent Court shall dispose of the said application filed by the petitioner in accordance with law, uninfluenced by the observations recorded by the High Court in the impugned order.

With the above observations, the instant petition is disposed of.”

In pursuance to order above, learned Sessions Judge, Patna, vide order dated 24.03.2015 rejected

the prayer for bail of the petitioner. Consequently the present application being Cr. Misc. No. 15814 of 2015 has been preferred renewing prayer for anticipatory bail.

This Court vide order dated 06.05.2015 again referred the matter to the Mediation Centre of the State Legal Services Authority. The report of the Mediator at Flag-A dated 20.08.2015 reflects that dispute could not be resolved through the process of mediation.

This court took serious endeavour to resolve the issue but it appears that both sides are adamant to their respective stand as the petitioner is not ready for resuming the conjugal life due to differences reaching to unbridgeable stage and the past conduct of the complainant. However, the petitioner is ready to make payment of permanent alimony on dissolution of marriage and on payment of some monthly installment for the welfare of the complainant whereas the complainant wants to resume the conjugal life.

Learned counsel for the petitioner has brought on record, by way of supplementary, an order dated 08.10.2015 passed in Maintenance Case No. 303 of 2012 by learned Additional Principal Judge, Family Court, Patna, preferred by the complainant, whereby the petitioner was directed to make payment of Rs. 10,000/- per month to the complainant as interim maintenance from the date of the order i.e. 08.10.2015 by 10th day of every succeeding month. The

petitioner was further directed to make payment of Rs. 10,000/- in one lump-sum as litigation cost. The petitioner is ready to comply the order of interim maintenance. A statement to that effect has been made in paragraph No. 3 of the supplementary affidavit which reads as follows:-

“That the petitioner humbly state and undertake to abide by order dated 08.10.2015 passed in Maintenance Case No. 303 of 2012 by learned Additional Principal Judge, Family Court, Patna and will pay a sum of rupees ten thousand regularly.”

It appears that little skirmishes have developed into an impass within two months of marriage.

Keeping in view, the fact that maintenance has been awarded with a lurking hope that issue will be resolved, if the petitioner is granted bail, otherwise chasm of difference will lead the parties to a dead end, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of 12 weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Patna in connection with Complaint Case No. 3065(C) of 2011, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The bail bonds of the petitioner shall be

accepted on payment of the up-to-date interim maintenance and litigation cost amount as directed by learned Court below.

Two consecutive defaults in making payment will give liberty to the complainant to file appropriate application for cancellation of bail of the petitioner.

(Dinesh Kumar Singh, J)

Shageer/Anil/-

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