

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38516 of 2014

Arising Out of PS.Case No. -206 Year- 2014 Thana -SAMASTIPUR COMPLAINT CASE District-
SAMASTIPUR

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Yashwant Rai @ Jasmant Roy S/o Mahendra Rai resident of Village -
Jalalpur Maliya Tola, P.S. - Dalsingsarai, District - Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Babita Devi W/o Yashwant Rai, D/o Vijay Rai R/o Village - Jalalpur
Maliya Tola, P.S. Dalsingsarai, District - Samastipur presently residence at
Village - Pacliyka, P.S. - Ujiarpur, District - Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh, Adv
For the O.P. No. 1 : Mr. B.M.P.Sinha (APP)
For the O.P. No. 2 : Mr. Rajesh Kumar Sinha, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

7 07-09-2015 Heard learned counsel for the parties.

Having regard to the fact that the petitioner facing prosecution under Section-498A of the Indian Penal Code and Section-3/4 of Dowry Prohibition Act, has come out to say that he was/is always ready to take care of his Wife-Opposite Party No. 2 and keep her with all due care and dignity, this Court had also issued notice to Opposite Party No. 2 by an order dated 01.04.2015 giving him also temporary reprieve of no coercive step to be taken against him.



Mr. Rajesh Kumar Sinha, learned counsel for Opposite Party No. 2, has appeared and he has however stated that the Opposite Party No. 2 is not prepared to live with the petitioner because of very bad experience in the hands of the petitioner. When this Court had tried to know the reaction of the Opposite Party No. 2 from her counsel as to whether she would like to go to the petitioner for living with him if she was given due protection by way of periodical review of the conduct of the petitioner by the Court below, even that was not acceptable to the learned counsel for Opposite Party No. 2, who in a very plain and simple term had straightway rejected the offer of the petitioner to restore conjugal life with the Opposite Party No. 2.

In such a situation, this Court keeping in view that the petitioner has also filed an application for restitution in the Court below as is claimed in paragraph no. 10 of the bail application and the fact that the petitioner has got no criminal antecedent, it would be inclined to grant

the privilege of anticipatory bail to the petitioner.



That being so, if the petitioner namely, **Yashwant Rai** surrenders, within a period of four weeks from today, he would 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, Dalsingsarai, Samastipur** in connection with **Complaint Case No. 206 of 2014**, subject to the conditions laid down under Section- 438 (2) Cr. P.C and also subject to the following conditions:-

(i) Pending matrimonial case before the Family Court for restitution of conjugal rights of the petitioner, shall be taken up on priority basis and will be decided on its own merits by the Family Court, Samastipur, within a maximum period of six months from the date of receipt of this order.

(ii) The pending complaint case against the petitioner shall be also taken up for trial on expeditious basis and subject to the Opposite Party No. 2 leading her evidence in the pending

complaint case no.206 of 2014, the trial shall be concluded within a maximum period of nine months from the date of receipt of this order.

(iii) 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.

(iv) That the bailor 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.

(v) 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)

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