

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39806 of 2014

Arising Out of PS.Case No. -132 Year- 2013 Thana -GAYA COMPLAINT CASE District- GAYA

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Ghulam Rasool Son of Md. Shafique Resident of Village Telauthu, P.S. Telazethze, District Rohtas (Bihar)

.... Petitioner/s

Versus

1.The State of Bihar.

2. Rizwan Perwee @ Guria, w/o Ghulam Rasool, d/o Md. Abdul Gaffar, r/o Village Telauthu, District Rohtas (Bihar). At present resident of village Garh Mohalla Ward No. 8, P.O./P.S Sherghati, District Gaya (Bihar).

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Qumrul Hoda, Adv

For the O.P. NO. 1 : Mr. Mustaque Alam(App)

For the O.P. NO. 2 : Mr. Jamil Akhtar, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

4 12-08-2015 Heard learned counsel for the parties.

Having regard to the nature of allegation against the petitioner for the offences punishable under Sections-498A, 379/34 and 504 and 323 of the Indian Penal Code, this Court was initially not inclined to grant the privilege of anticipatory bail to the petitioner keeping in view that the petitioner in the lifetime of the Opposite Party No. 2, had made an attempt to marry another girl without her consent. In fact whatever has been stated by learned counsel for the Opposite Party No. 2, will make out that the petitioner wanted to cheat

Opposite Party No. 2, by marrying another girl.

Learned counsel for the petitioner, however, submits that whatever has been done in past, now the petitioner is ready to atone his conduct and keep his wife-Opposite Party No. 2, with due care and dignity as a wife would deserve in the hand of the husband.

Learned counsel for the Opposite Party No. 2 submits that from the past experience of the Opposite Party No. 2, it would be very difficult to her to believe the changed attitude of the petitioner and it appears that the petitioner having an apprehension that his this anticipatory bail would be rejected, has sought to change colour.

This Court taking into account the offer of the petitioner would direct that if the petitioner namely, **Ghulam Rasool** surrenders within a period of four weeks from today, he would be released on provisional bail for a period of one month on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of **Judicial**

Magistrate 1st Class, Sherghatti, Gaya in connection with **Complaint Case No. 132/13(Tr. No. 2422/13)** on the following terms and conditions:-

(i) Upon being granted the privilege of provisional bail, the petitioner must go to the house of the wife-Opposite Party No. 2 and take her to his own house for living together and would keep her with due care and dignity.

(ii) After expiry of period of one month 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, on finding that she was not subjected to any cruelty, mental or physical by her husband or his family members. The provisional bail of the petitioner shall be extended, this time for a period of three months.

(iii) After expiry of period of aforesaid three months the petitioner and Opposite Party No. 2 shall again appear before the Court below and the trial Court will make similar 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 and in the event of a satisfactory answer of opposite party no. 2 the provisional bail of the petitioner shall be

extended, this time, for a period of six months.

(iv) After expiry of period of aforesaid six months the petitioner and Opposite Party No. 2 shall again appear before the Court below and the trial Court on inquiry from Opposite Party No. 2, the wife, and being satisfied that she was not subjected to any cruelty, mental or physical by her husband or his family members, would extend the period the provisional bail of the petitioner this time for a period of one year.

(v) After expiry of period of aforesaid one year the petitioner and Opposite Party No. 2 shall again appear before the Court below and the trial Court will once again 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 and in the event of there being no complain with regard to behaviour of the petitioner his provisional bail shall be confirmed.

(vi) It is also made clear that at any point of time if the Wife Opposite Party No. 2 at any point of time during the pendency of the present criminal case alleges that she was subjected to any cruelty, mental or physical by her husband or his family members, the court below after making necessary enquiry and giving an opportunity to

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the petitioner shall be at liberty to cancel the bail of the petitioner.

(vii) 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.

(viii) 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.

(ix) 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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