

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18816 of 2015

Arising Out of PS.Case No. -841 Year- 2013 Thana -NAWADAH COMPLAINT CASE District-
NAWADA

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Harendra Ram son of Maho Ram, resident of Village- Ektara, P.S.-
Govindpur, District- Nawadah.

.... Petitioner

Versus

1. The State of Bihar
2. Nilam Devi wife of Harendra Ram and daughter of Ram Balak Ram,
resident of village Ramdiha, P.s. Akbarpur, District Nawadah

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dineshwar Prasad Singh

For the Opposite Party/s : Mr. Yogendra Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 01-09-2015

Heard learned counsel for the petitioner.

Despite service of notice on O.P.No.2 no one has appeared to oppose the prayer for anticipatory bail of the petitioner facing prosecution for offence under sections 498A and 494 of the Indian Penal Code.

Learned counsel for the State, however, is present.

Having regard to the nature of allegation for offence under sections 494 and 498A of the Indian Penal Code this Court on an earlier occasion was not inclined to grant privilege of anticipatory bail to the petitioner but then this Court had issued notice to O.P.No.2 because the petitioner had categorically asserted that he had never married any other lady and that he was still ready to support not only his wife, O.P.No.2, and his



daughter. As noted above, O.P.No.2 who despite service of notice had not appeared even before the Sessions Judge, Nawadah, has again not chosen to appear even when notice of this bail application was served on her through her counsel Sri Sitaram Mistry, the Advocate, who was appearing on behalf of O.P.No.2 in the complaint case.

In such a situation when the petitioner still insists that he has got no grievance against his wife, O.P.No.2, and that the story of second marriage of the petitioner getting married in Bangalore is out and out a false statement, this Court would direct the petitioner, Harendra Ram, to surrender before the court below within a period of four weeks from today and the court below shall grant provisional bail to the petitioner initially for a period of four weeks on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the S.D.J.M., Nawadah in Complaint Case No. 841/2013, subject to the following conditions:-

(i) That both of the bailors will be a 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.

(ii) That the bailer shall also state on affidavit that he 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.

(iii) That the petitioner will give an undertaking that he will receive the police papers on the given date and be present on the date fixed for charge and if he fails to do so on two given dates and delays the trial in any manner, his bail will be liable to be cancelled for reasons of misuse.

(iv) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled.

In the period of four weeks the court below shall fix a date on which it would direct for personal appearance of O.P.No.2 and if O.P.No.2 having appeared in person would also be prepared to live with the petitioner, the court below will direct the petitioner to take her along and keep her with him with all dignity that a wife would deserve in the hands of a husband. The petitioner in such event will be given only provisional bail for a period of three months and after three months the court below on surrender of the petitioner and appearance of opposite party no. 2 shall ascertain from O.P.No.2 as to whether she was kept with due respect and dignity by the petitioner and in the event she would express no complaint against her husband, the petitioner, the provisional bail

of the petitioner shall be confirmed but if after being taken by the petitioner to his house O.P.No.2 finds either the presence of some lady being wife of the petitioner or that she will be put to any sort of physical or mental torture by the petitioner and/or his family member, the provisional bail of the petitioner shall be cancelled and he shall be taken into custody.

At the same time it is made clear that if O.P.No.2 does not appear before the court below on the date fixed, as she has done both before the Sessions Judge and this Court despite service of notice and/or having appeared before the Court expresses her unwillingness to live with the petitioner on any invalid grounds, the provisional bail of the petitioner shall be confirmed immediately after expiry of his aforementioned period of four weeks of grant of provisional bail.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

surendra/-

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