

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19716 of 2015

Arising Out of PS.Case No. -1842 Year- 2009 Thana -PATNA COMPLAINT CASE District-
PATNA

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Kilesh Kumar son of Late Bhimsen Singh resident of village- Korra, P.S.
Janipur, District patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Smt Gudia Kumari wife of Kilesh Kumar and daughter of Late Mithilesh Singh at Present resident of village- Dariyapyur, P.S. - Bihta District- patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Usha Kumari Singh, Adv.
For the Opposite Party/s : Mr. S.M.Rahman (APP)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 19-08-2015 Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under Section 498A of the Indian Penal Code, this Court will not be impressed with the submission of the learned counsel for the petitioner that the petitioner had filed matrimonial case for seeking restitution of conjugal life and/or was/is always willing to maintain his relationship with the opposite party no.2 when it finds from paragraph no.11 of the complaint petition that he petitioner, being Hindu, has already married one Sony Kumari, daughter of Lala Rai, resident of village Varuna in police station Bikramganj of district Rohtas.

In the aforesaid circumstances, it has to be held that the opposite party no.2, who is also having also a son from the marriage

with the petitioner, has been literally left stranded in her life and, therefore, the petitioner cannot get the privilege of anticipatory bail.

Learned counsel for the petitioner, in such a situation, submits that the petitioner will be ready to pay some amount for maintaining the opposite party no.2 and her son till the end of the trial but he cannot say the exact amount. Once this Court would find that the petitioner wants to maintain his wife by paying certain amount till the end of the trial, it would direct him to pay a sum of Rs. 7,000/- per month keeping in view that the opposite party no.2 has to not only maintain herself but also a child out of the marriage and she has also been harassed on account of the second marriage performed by the petitioner.

In that view of the matter, if the petitioner, namely, Kilesh Kumar would surrender before the court below within a period of four weeks from today and gives an undertaking to pay a sum of Rs. 7,000/- per month in the bank account of the petitioner by every 5th of the next months commencing from August, 2015 and till end of the trial, he shall be released on bail on furnishing on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Sri Ravi Ranjan, Judicial Magistrate, 1st Class, Patna in connection with Complaint Case No. 1842 (C)/2009, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

(i) If the petitioner does not comply his undertaking in making payment to the petitioner on month to month basis, his bail granted to him shall automatically stand cancelled and he shall be taken into custody.

(ii) That both the bailors will be a close relative of the petitioner, who will undertake 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 affidavit shall clearly state that the petitioner is not an accused in any other case and if he is, he shall not be released on bail.

(iii) 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.

(iv) That the petitioner will be well represented on each and every date in course 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.

It is, however, made clear that if the petitioner does not do so, his prayer for bail shall be rejected.

(Mihir Kumar Jha, J)

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