

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4966 of 2016

Arising Out of PS.Case No. -2890 Year- 2014 Thana -SARAN COMPLAINT CASE District-
SARAN

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1. Madhav Krishna Dubey S/o Sri Taraknath Dubey resident of Mohalla-
Karnamepur, P.S. Shahpur, District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Suman Dubey W/o Madhav Krishna Dubey D/O Sri Jamuna Mishra
resident of Mohalla- Karnamepur, P.S. Shahpur, District- Bhojpur. At
present resident of Quarter no. D/5, Police Line Chapra, Near Gandhi
Chowk, P.S. Chapra Nagar, District- Saran at Chapra.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dewendra Narayan Singh, Advocate

For the Opposite Party/s : Mr. M.Dayal (App)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

8 01-12-2016 Heard learned counsel for the petitioner and the
State.

The petitioner being the husband of the complainant is apprehending his arrest in a complaint case wherein processes have been directed to be issued after cognizance being taken for the offences punishable under Sections 498A of the Indian Penal Code.

The basic accusation is of torture.

It is submitted by the learned counsel for the petitioner that petitioner admits his marriage with the complainant and birth of two children. The petitioner is an Air Force Personnel and one child is residing with the petitioner.



When the relationship went sour, the petitioner filed Matrimonial Suit No. 435 of 2014 on 21.11.2014 with a prayer for divorce on the ground of adultery. However, the present complaint was filed on 18.09.2014. The complainant filed Maintenance Case No. 145 of 2014, wherein Principal Judge, Family Court, Saran vide order dated 01.07.2015 directed the petitioner to make payment of ad-interim maintenance of Rs. 3,000/- to the complainant and Rs. 500/- to the minor child per month from the date of order i.e. 01.07.2015.

It is submitted by the learned counsel for the petitioner that petitioner is depositing the said amount before the learned court below through bank draft. On the joint prayer of the parties, the matter was referred to the Mediation and Conciliation Centre of the Bihar State Legal Services Authority vide order dated 09.05.2016. The report of the Mediator at Flag-B dated 05.08.2016 reflects that the issue could not be resolved through process of mediation.

Learned counsel for the complainant submits that complainant is still ready to resume the conjugal life and has not received the maintenance amount. Though, the complainant has failed to submit the bank account number before the learned court below till date. The complainant is ready to submit the bank account number within a period of three weeks on affidavit before the learned court below.

Considering the rival submission of the parties,



keeping in view of the fact that Matrimonial Suit is pending on the ground of adultery, the reconciliation does not appear to be feasible at present. But in view to save the complainant and minor child from destitution and vagrancy with lurking hope that the issue may be reconciled in future particularly since the petitioner is an armed force personnel, let the above named petitioner be released on provisional anticipatory bail for six months in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Saran at Chapra in connection with Complaint Case No. 2890 of 2014, subject to conditions as laid down under Section 438(2) of the Indian Penal Code.

It is submitted by the learned counsel for the petitioner that petitioner will revalidate the draft, if it is already expired or make payment of the equivalent amount through bank payee cheque.

It is expected from the learned court below to release the bank draft with regard to maintenance amount submitted by the petitioner in favour of complainant or the petitioner for the purposes of getting revalidate the draft.

The provisional bail of the petitioner will be confirmed by the learned court below on payment of up to date



maintenance amount.

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

The present order, in no way, will preclude the parties to resolve the issue otherwise.

(Dinesh Kumar Singh, J)

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