

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5299 of 2016

Arising Out of PS.Case No. -85 Year- 2014 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

1. Manoj Prasad Kushwaha son of Sri Rajdhari Mahto, resident of village-
Karsahiya, P.S.- Dhaka, District- East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Kunti Devi, daughter of Sri Madan Prasad Kuswaha, resident of village-
Chiutanha, P.S. Chiutanha, District- Bara, Nepal

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar

For the Opposite Party/s : Mr. Raj Ballabh Singh (App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 20-06-2016 Petitioner is apprehending his arrest in a complaint case wherein processes were directed to be issued after cognizance being taken for the offences punishable under Sections 323, 406, 498A/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

The basic accusation is of torture.

It is submitted by learned counsel for the petitioner that petitioner denies the factum of marriage and birth of child from the wedlock. A statement to that effect has been made in para 9 of the petition which reads as follows:-

“That the petitioner never
married with the complainant nor has he fathered
the said child”

It is submitted by learned counsel for the complainant that complainant claims to have married with the

petitioner and out of the wedlock one male child has been born.

Considering the nature of dispute, both sides agree for DNA matching of the child with that of the petitioner and the complainant.

Considering the aforesaid facts, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of 12 weeks from today, be released on provisional anticipatory bail for six months on furnishing bail bond of Rs. 10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Sikrahana at Dhaka, East Champaran in connection with Trial No. 7117 of 2015, arising out of Complaint Case No. C-85 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Let learned Court below get the DNA sample of the child matched with the complainant and the petitioner through some authorized centre and on receipt of the DNA matching report, if it is found that DNA of the child does not match with the petitioner then provisional bail of the petitioner will be confirmed. However, if the DNA of the child will match with the petitioner then petitioner will surrender and pray for regular bail.

(Dinesh Kumar Singh, J)

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