

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11301 of 2016

Arising Out of PS.Case No. -396 Year- 2015 Thana -AURANGABAD COMPLAINT CASE
District- AURANGABAD



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Irshad Ali, @ Md. Irshad Ali son of Mahboob Ali Warsi, resident of
Village- Gewal Bigha, Police Line, Near Masjid, Police Station- Rampur,
District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Nazia Khatoon wife of Irshad Ali daughter of Abdul Kuddus, resident
of Village- Gewal Bigha, Police Line, Near Masjid, Police Station-
Rampur, District- Gaya. at present Village- Dhandhua, P.S.- Muffasil,
District- Aurangabad.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No-2
For the Opposite Party/s : Mr. Md.Ansarul Haque(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

03/ 08-08-2016 Heard learned counsels 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 and 3/4 of Dowry

Prohibition Act.

The basic accusation is of torture for non-fulfillment of the dowry demand and getting the pregnancy terminated.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant and the petitioner has filed Matrimonial Suit No. 149 of 2015 with a prayer for decree of nullity of marriage on the ground that on the date of marriage the complainant was found pregnant.

It appears that the learned Sessions Judge disposed of the anticipatory bail application of the petitioner since only summons were issued but in paragraph 4 of the supplementary it has been mentioned that now non-bailable warrant of arrest has been issued, which reads as follows:-

“That in the present case bailable warrant of arrest has been issued against the petitioner and thereafter on 03.03.2016 non-bailable warrant of arrest has been issued against the petitioner in the present case by the Court of learned Sub-divisional Judicial Magistrate, Aurangabad.”

It is further submitted by learned counsel for the petitioner that in view of the above facts it is not possible for the petitioner to keep the complainant. However, the petitioner



is ready to make payment of Rs.2,200/- per month from September, 2016 to the complainant by depositing the same in her account by second week of every succeeding month.

Counsel for the complainant submits that the complainant is ready to accept the offer of the petitioner and undertakes to submit the bank account number on affidavit before the learned court below within a period of three weeks.

Considering the filing of the matrimonial suit at earlier point of time and the present stand of the parties, let the above named petitioner be released on anticipatory bail in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, 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, Aurangabad in connection with Complaint Case No. 396 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

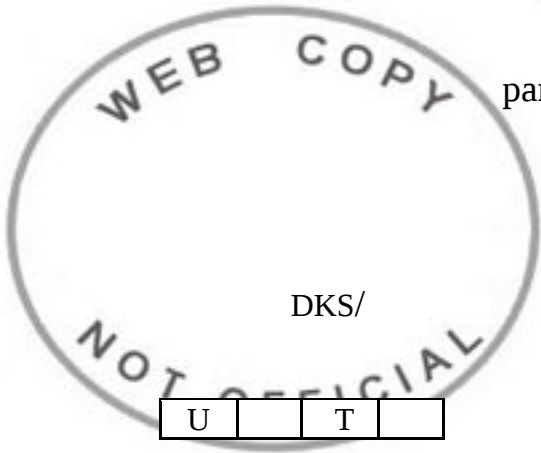
The aforementioned payment will be subject to any order passed in matrimonial, maintenance or connected proceedings.

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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