

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18832 of 2016

Arising Out of PS.Case No. -159 Year- 2015 Thana -AURAI District- MUZAFFARPUR

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Phani Bhushan Shahi @ Fani Bhushan Shahi Son of Madan Prasad Shahi
Resident of village - Madhuban Beshi, P.S. Aurai, District - Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Lalita Devi Wife of Fani Bhushan Shahi Resident of village -
Madhuban Beshi, P.S. Aurai, District - Muzaffarpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bela Singh

For the Opposite Party/s : Mr. Ambika Bhagat(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

04/ 21-07-2016

Heard learned counsels for the petitioner and the State.

The petitioner being the husband of the informant is apprehending his arrest in a case registered for the offences punishable under Sections 341, 323, 504, 494, 498A, 376/511/34 of the Indian Penal Code, 3/4 of Dowry Prohibition Act and 3(1)(x) (xi) of SC/ST (Prevention of Atrocities) Act.

The prosecution case is that the informant claims to have married with the petitioner on 05.04.2009 and subsequently a baby girl was born out of the wedlock who is aged about five years. But subsequent to the marriage the family members of the petitioner used to humiliate the informant by

calling caste name when the father of the petitioner made attempt to ravish the informant and now the petitioner has performed second marriage.

The petitioner and the informant are present in the Court.

It is submitted by learned counsel for the petitioner that the petitioner denies the factum of the marriage and at earlier point of time the informant filed Complaint Case No. 2574 of 2009 making accusation under Sections 498A, 420, 406 of the Indian Penal Code, 3/4 of Dowry Prohibition Act and 3(1)(x) of SC/ST (Prevention of Atrocities) Act, where also petitioner denies the factum of marriage and considering the factum of marriage is in dispute a co-ordinate Bench of this Court granted anticipatory bail on 22.06.2012 vide Cr. Misc. No. 19782 of 2011. The same has been brought on record as Annexure-2 to the petitioner.

Both sides agreed for DNA matching of the child with that of the petitioner and the informant.

Considering the fact that the factum of marriage and birth of child are in dispute, 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 Judicial Magistrate, Ist Class, Muzaffarpur in connection with Aurai P.S. Case No. 159 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Let the learned court below get DNA matching of the child with the petitioner and the informant done through some recognized centre. If it is found that the DNA does not match with the petitioner then the provisional bail will be confirmed by the learned court below but if the DNA of the petitioner matches with the child then the petitioner will surrender and pray for regular bail. The cost of the DNA matching will be borne by the petitioner.

(Dinesh Kumar Singh, J)

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