

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20153 of 2016

Arising Out of Complaint Case No.. -691 Year- 2008 Thana -MADHUBANI COMPLAINT CASE
District- MADHUBANI

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Jiyaul Haque @ Md. Jiyaul Haque, son of Masoom

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Jha, Advocate

For the Opposite Party/s : Mr. Anant Kumar (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 05-05-2016

Heard learned counsels for the petitioner and the State.

The petitioner being the husband of the complainant is apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 323/498A and 504/34 of the Indian Penal Code.

Basic accusation is of torture.

Learned counsel for the petitioner submits that the petitioner admits his marriage with the complainant and he is ready to keep the complainant as wife with full dignity and honour. A statement to that effect has been made in para 8 of the petition which reads as follows:-

"That the petitioner is husband of the complainant and ready to keep and maintain her with full honour and dignity

in the matrimonial house."

It is further submitted that the learned Sessions Judge has disposed of the anticipatory bail application of the petitioner since only summons were issued but it is an error of record. In fact, non-bailable warrant of arrest has been issued against the petitioner. A statement to that effect has been made in paragraph 15 of the petition, which reads as follows :-

"That the learned Sessions Judge in the impugned order dated 06/02/2016 has held that no order of issuance of warrant has been passed as such there is no apprehension of arrest of the petitioner is an error of record fact is that non-bailable warrant of arrest has been issued against the petitioner by the learned trial Court."

In view of the facts that after order taking cognizance being passed the petitioner was summoned vide order dated 22.01.2009, but till date the matter is pending for appearance of two accused including the petitioner and present stand of the petitioner, let the above named petitioner be released on provisional anticipatory bail for three months in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) with two sureties of the like amount

each to the satisfaction of learned SDJM, Jhanjharpur, Madhubani, in connection with T.R. No.815/2014 arising out C.R. Case No.691/2008, subject to the conditions as laid down under Section 438(2) Cr.P.C.

Let the learned court below issue notice to the complainant for her appearance. On her appearance, the petitioner will take the complainant to keep her as wife with full dignity and honour.

The provisional bail of the petitioner will be confirmed by learned court below in three eventualities (i) if the matrimonial harmony is substantially restored (ii) if the complainant fails to appear before the learned court below or (iii) if the complainant gets reluctant to reconcile the issue.

(Dinesh Kumar Singh, J)

Ashwini/-

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