

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22869 of 2016

Arising Out of PS.Case No. -920 Year- 2015 Thana -BUXAR COMPLAINT CASE District-
BUXAR

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Shiv Shankar Gond Son of Shiv Mangal Gond Resident of Village-
Kharahatand P.S.- Simari District-Buxar

.... Petitioner/s

Versus

1. The State of Bihar
2. Suneeta Devi Wife of Shiv Shankar Gond Resident of Village- Nandan
P.S.- Dumrao, District- Buxar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar
For the Opposite Party/s : Mr. Ashok Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

02/ 23-05-2016 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 basis accusation is of torture for non-fulfillment of the dowry demand.

It is submitted by learned counsel for the

petitioner that the petitioner admits his marriage with the complainant.

The impugned order reflects that the petitioner was granted anticipatory bail since he undertook to keep the complainant as wife with full dignity and honour but the petitioner failed to comply the undertaking.

It is further submitted by learned counsel for the petitioner that at present the petitioner is not willing to keep the complainant since the complainant herself made petition before the learned court below that she of her own left the matrimonial house.

However, counsel for the complainant submits that the complainant is ready to resume the conjugal life.

In view of the fact that the petitioner was granted provisional anticipatory bail and it is submitted that the petitioner has already executed the bail bonds, this anticipatory bail application is not maintainable as the petitioner is in deemed custody of the court.

Considering the aforesaid facts, let the learned court below consider and dispose of preferably on the same day the prayer for regular bail of the petitioner in view of the ratio laid down in the case of Mahendra Prasad Singh Vs. State of

Bihar, reported in 2004(3) PLJR, 491, if the petitioner surrenders before the learned court below within a period of six weeks from today in connection with Complaint Case No. 920(C) of 2015 pending in the court of learned Sub-divisional Judicial Magistrate, Buxar.

It is made clear that bail can only be denied in case of misuse of privilege of bail.

With the aforesaid observation, this application is disposed of.

(Dinesh Kumar Singh, J)

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