

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31023 of 2015

Arising Out of PS.Case No. -107 Year- 2015 Thana -MADHUBANI COMPLAINT CASE District-
MADHUBANI

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MD. SHAMIM AKHTAR @SHAMIM AKHTAR, S/o Md. Sabir Azad,
resident of village- Paigamberpur, P.S.- Keoti, District- Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar
2. Ulfat Praveen, D/o Md. Ansar, resident of Benipatti, P.S.-Benipatti,
District- Madhubani

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav, Advocate

For the Opposite Party/s : Mr. Ram Anurag Singh(App)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

6 25-04-2016 Heard learned counsel for the petitioner and the
State.

The petitioner being the husband of the complainant is apprehending his arrest in a complaint case in which processes have been directed to be issued after cognizance being taken for the offences punishable under Sections 498A, 323, 379, 376/511 of the Indian Penal Code.

The basic accusation is of torture.

On instruction it is submitted by learned counsel for the petitioner that petitioner admits the marriage with the complainant and birth of a female child. However, the petitioner claims that he has given talak to the complainant as per the Muslim rites prior to the lodging of the complaint on 12.11.2014 and thereafter the present complaint has been filed

on 29.01.2015. Though, it is also claimed that the petitioner has given draft of Rs. 7,000/- on 15.11.2014 as denmohar, but it is admitted that said draft was never been en-cashed.

It is submitted by the learned counsel for the complainant that marriage between the complainant and petitioner and birth of a female child are admitted facts. The complaint is still ready to resume the conjugal rights with the petitioner. The petitioner has never given talak to the complainant and she has not received any denmohar amount.

Considering the fact that the factum of divorce is in dispute, let the above named petitioner be released on provisional anticipatory bail for three 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 Sri Ajay Kumar-IInd, J.M., Ist Class, Madhubani in connection with Complaint Case No. 107 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

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

Let, the learned court below decide as a preliminary issue, if it is found that the petitioner has ultimately given talak to the complainant, then the provisional

bail of the petitioner will be confirmed, otherwise petitioner will
surrender and pray for regular bail before the learned court
below.

(Dinesh Kumar Singh, J)

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