

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39412 of 2015

Arising Out of PS.Case No. -1144 Year- 2012 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

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Arun Razak, Son of Dharkhan Baitha, resident of Village- Bankul, Police Station- Minapur in the district of Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Chanda Devi, Wife of Arun Razak, Daughter of Mahendra Baitha, at present resident of Village- BASauli Baburam, Police Station- Bochahan in the district of Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sushant Kumar
For the Opposite Party/s : Mr. Binod Kumar (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

05/ 23-11-2016 Heard learned counsels for the petitioner and the State.

The petitioner being the husband of the complainant has renewed his prayer for anticipatory bail in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 498A of the Indian Penal Code and 4 of the Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of the dowry demand.

The earlier anticipatory bail application stood



dismissed against opposite party no. 2 due to non-compliance of peremptory vide order dated 08.05.2014 and hence, the entire application was dismissed vide order dated 21.04.2015 since the application was surviving only against State of Bihar in a case of matrimonial dispute. Therefore, considering the nature of accusation notices were issued to opposite party no. 2 vide order dated 18.05.2016. The office note dated 12.07.2016 reflects that ordinary process of notice has been served on the lawyer of the complainant appearing before the learned court below. However, service report of registered cover of notice has not been received and thereafter the matter was adjourned to 20.07.2016 and 03.08.2016 but none appeared on behalf of the complainant-opposite party no. 2. In the circumstances, the notices issued to opposite party no. 2 is hereby treated as deemed valid service.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant and is ready to keep the complainant as wife with full dignity and honour. Statement to that effect has been made in paragraph 13 of the petition, which reads as follows:-

“That the petitioner is ready to keep the complainant with full love and affection.”

It is further submitted by learned counsel for the

petitioner that in 2014 when the anticipatory bail application of the petitioner was rejected by the learned Sessions Judge the petitioner and complainant appeared and at that time also the petitioner was ready to keep the complainant but the complainant refused to accept the offer of the petitioner as the petitioner has already performed second marriage, though, the petitioner denies the factum of second marriage. Statement to that effect has been made in paragraph 11 of the petition, which reads as follows:-

“That the allegation of re-marriage of the petitioner is out and out false, fabricated and concocted. And such allegation is categorically denied.”

Considering the present stand of the petitioner, let the above named petitioner be released on provisional anticipatory bail for four 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 Sub-divisional Judicial Magistrate, East, Muzaffarpur in connection with Complaint Case No. 1144 of 2012, 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.

The provisional bail of the petitioner will be confirmed by the learned court below in three eventualities:- (i) on substantial restoration of the matrimonial harmony; (ii) or if the complainant gets reluctant to reconcile the issue; and (iii) or if the complainant fails to appear before the learned court.

However, the provisional bail of the petitioner will not be confirmed if substantive proof comes that the petitioner has performed second marriage and in that eventuality the petitioner will surrender and pray for bail.

(Dinesh Kumar Singh, J)

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