

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34971 of 2016

Arising Out of PS.Case No. -167 Year- 2015 Thana -BELA District- SITAMARHI

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Md. Reza @ Chottani, Son of Late Md. Mansoor @ Lal Babu, resident of Village- Andauli, P.S.- Parihar, (wrongly stated as Ps- Bela in the FIR), District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar
2. Afsana Khatoon, D/o Md. Akbar Ali, resident of Lohauria, P.S.- Bela, District- Sitamarhi, wife of Md. Reza @ Chottani, of Village- Andauli, P.S.- Parihar, District- Sitamarhi.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa
For the Opposite Party/s : Mr. Sri Pranav Kumar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

03/ 21-11-2016 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 323, 379 and 498A of the Indian Penal Code.

The basic accusation is of torture.

It is submitted by learned counsel for the petitioner admits his marriage with the informant and birth of two children and is ready to keep the informant as wife with full dignity and honour, statement to that effect has been made in

paragraph 11 of the petition, which reads as follows:-

“That it is again made clear that the petitioner had even been ready and inclined and is still keeping O.P. No. 2 with himself with full honour, love and affection.”

It is further submitted that the similar was the stand of the petitioner before the learned Sessions Judge when the complainant appeared and both are ready to resume the conjugal life which gets reflected from paragraph 5 of the impugned order, which reads as follows:-

“The petitioner (husband) has stated that he is ready to keep his wife with all dignity and care. The complainant (wife) has also stated that she is ready to live with her husband.”

The anticipatory bail application of the petitioner was disposed of by learned Sessions Judge with a direction that if the petitioner surrenders along with the informant before the learned Magistrate then he will be released on bail but since the informant refused to go with the petitioner he could not surrender, though, the informant is residing in the house of the petitioner.

It is submitted by learned counsel for the informant that since the petitioner has performed second marriage she is not ready to resume the conjugal life. However,



after the second marriage the stand of the informant before the learned Sessions Judge was that she is ready to resume the conjugal life. The counsel for the informant further submits that the informant claims some monthly amount for the welfare of herself and the children and if the petitioner agrees for the same she is not opposing the prayer for anticipatory bail of the petitioner.

It is further submitted by learned counsel for the petitioner that the petitioner is ready to make payment of Rs.3,000/- per month from January, 2017 to the informant by depositing the same in her account by second week of every succeeding month.

Counsel for the informant submits that the informant is ready to accept the offer of the petitioner and undertakes to submit the bank account number on affidavit before the learned court below within a period of four weeks.

Considering the present stand of the parties, to save the informant from destitution and vagrancy and also in view of lurking hope that the issue would be resolved in future, let the above named petitioner be released on anticipatory bail in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on





furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Bela P.S. Case No. 167 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The aforementioned payment will be subject to any order passed in matrimonial, maintenance or connected proceedings.

Three consecutive defaults in making payment will give liberty to the informant to file application for cancellation of bail of the petitioner.

The present order, in no way, will preclude the parties to resolve the issue otherwise.

(Dinesh Kumar Singh, J.)

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