

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36996 of 2016

Arising Out of PS.Case No. -538 Year- 2016 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

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1. Anand Sharma, Son of Bipin Kumar Sharma, Resident of Village- Ukhai
Rasulpur, P.S.- Mufassil Siwan, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar
2. Shashi Bala Sharma W/o Anand Sharma, R/o Ukhai Rasulpur, P.S.-
Mufassil Siwan, Distt- Siwan, Present- Residing- North Mohalla Mirganj
P.S.- Mirganj, Distt- Gopalganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kuber Pathak, Advocate

For the Opposite Party/s : Mr. Smt. Sahin Begam

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

ORAL ORDER

2 04-10-2016 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 Section 498A of the Indian Penal Code.

The basic accusation is of torture.

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

“That the petitioner is ready to keep her wife with full dignity and honours.”

It is further submitted that similar was the stand of the petitioner before the learned court below which get reflects from the impugned order. The petitioner has filed Matrimonial Suit No. 260 of 2015 on 21.12.2015 for restitution of conjugal life, thereafter the present complaint case has been filed. The petitioner will not give any opportunity to the complainant to make complaint in future.

It is submitted by the learned counsel for the complainant that complainant is ready to accept the offer of the petitioner, though she is apprehensive due to past conduct of the petitioner as similar undertaking was given at the time of consideration of anticipatory bail of the parents of the petitioner, but thereafter petitioner's side made assault to the complainant's side.

Both the petitioner and complainant agree to appear before the learned court below on 8th of November, 2016 when the petitioner will take the complainant to keep her as wife with full dignity and honour.

It is submitted by the learned counsel for the petitioner that now the non-bailable warrant has been issued against the petitioner vide order dated 05.08.2016 passed by learned court below. Statement to that effect has been made in para-3 of the supplementary affidavit which reads as follows:-

“That it is stated that vide

order dated 02.08.2016, the court of learned Sub-Divisional Judicial Magistrate Gopalganj has directed to issue non-bailable warrant of arrest against the petitioner and the said order has already been complied on 05.08.2016 i.e. on 05.08.2016.”

Considering the present stand of the petitioner, let the above named petitioner be released on provisional anticipatory bail for six 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, Gopalganj in connection with Complaint Case No. 538 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The provisional bail of the petitioner will be confirmed within six months 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.

(Dinesh Kumar Singh, J)

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