

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27008 of 2016

Arising Out of PS.Case No. -32 Year- 2016 Thana -PARIHAR District- SITAMARHI

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Rakesh Thakur Son of Mahendra Thakur Resident of Vilalge Adkhanni, PS
Parihar, District Sitamarhi.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.

For the Opposite Party/s : Mr. Sri Chandrasen Prasad Singh (APP)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 09-08-2016

Heard learned counsels for the petitioner and the State.

The petitioner being the husband of the informant is apprehending arrest in a case registered for the offences punishable under Sections 498A, 494 and 504/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of the dowry demand and performing second marriage.

It is submitted by the learned counsel for the petitioner that the petitioner admits his marriage with the informant and birth of three children. It is further submitted that the petitioner has not performed second marriage, statement to that effect has been made in para 3 of the supplementary affidavit which reads as follows:-

“That it is submitted here that though it has been alleged in the FIR that the petitioner has entered into second marriage but this fact is not correct. The

petitioner has not entered into second marriage.”

It is further submitted that the petitioner is ready to keep the informant and children with full dignity and honour, statement to that effect has been made in para 11 of the petition which reads as follows:-

“That the petitioner is ready to keep his wife and his/her minor children with full honour and dignity....”

It appears from the impugned order that it is specifically alleged by the informant that the petitioner performed second marriage with one Kajal Kumari daughter of Naresh Thakur. Paragraph no.4 of the impugned order further reflects that on appearance of the informant in spite of notice to the petitioner the petitioner deliberately chose not to appear. Paragraph no.4 of the impugned order reads as follows:-

“4. During hearing of the bail application, the informant along with three children, has appeared in the court. The petitioner has not appeared before the court in spite of specific direction given to him for physical appearance by the court.”

Learned counsel for the informant submits that though, the informant is ready to resume the conjugal life but she is apprehensive due to information that the petitioner has performed second marriage.

Considering the present stand of the parties, let the above named petitioner be released on provisional anticipatory bail for four months in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned ACJM-VI, Sitamarhi in connection with Parihar P.S. Case No. 32 of 2016, subject to the conditions as laid down under Section 438(2) Cr.P.C.

Both sides agree to appear before the learned court below on 16th of August, 2016 when the learned court below after getting a report from the investigating agency and prima facie found that the petitioner has not performed second marriage, will confirm the provisional bail of the petitioner in three eventualities (i) if the matrimonial harmony is substantially restored (ii) if the informant failed to appear or (iii) if the informant deliberately refuses to reside with the petitioner.

But if any substantive proof comes that the petitioner has performed second marriage then the petitioner will surrender and pray for regular bail.

(Dinesh Kumar Singh, J)

Amrendra/-

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