WEB COPY NOT OFFICIAL

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36377 of 2016

Arising Out of PS.Case No. -242 Year- 2015 Thana -ROHTAS COMPLAINT CASE District-SASARAM (ROHTAS)

==========

Md. Wakil Sah @ Wakil Sah

.... Petitioner/s

Versus

1. State of Bihar,
2. Safina khatoon

.... Opposite Party/s

==========

Appearance :
For the Petitioner/s : Mr. Ajay Nandan Sahay
For the Opposite Party/s : Smt. Gulnar Begam

==========

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 23-08-2016 Heard learned counsels for the petitioner and the State.

The petitioner being the husband of the complainant is apprehending arrest in a complaint case in which processes were directed to be issued after cognizance being taken under Sections 498A and 406 of the Indian Penal Code and sections 3 and 4 of Dowry Prohibition Act.

The basic accusation is of torture for non fulfillment of dowry demands.

On instruction it is submitted 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 the aforesaid effect has been made in paragraph no. 7 of the petition relevant portion of which reads as follows:

" …….in no way the petitioner is against the complainant who is always ready to dissolve the dispute and is also keep to eager the complainant with full dignity and honour as wife."

It is further submitted that similar was the stand of the petitioner before the learned court below when the complainant declined to accept the offer on the ground that the petitioner has performed second marriage. The petitioner denies to have performed second marriage. Statement to that effect has been made in paragraph 8 of the petition, relevant portion of which reads as follows:

"…….petitioner has not married with any other lady ……."

Learned counsel for the complainant submits that the complainant is reluctant to accept the offer only because the petitioner has performed second marriage.

The factum of second marriage cannot be decided in the present proceeding.

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 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 SDJM, Bikramganj in connection with Complaint Case No. 242C of 2015 subject to the conditions as laid down under Section 438(2) Cr.P.C.

Let the learned court below issue notice to the complainant and 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 if the complainant fails to produce substantial proof with regard to the factum of second marriage and in that event the complainant will have the opportunity to resume the conjugal life but if the complainant produces sufficient proof with regard to second marriage then the petitioner will surrender and pray for regular bail.

(Dinesh Kumar Singh, J)

Anil/-

U		T	