

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 49107 of 2016

Arising Out of PS.Case No. -2789 Year- 2011 Thana -VAISALI COMPLAINT CASE District-
VAISHALI(HAJIPUR)

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Prabhat Kumar Son of Ram Naresh Jha, Resident of Village Nari Kala, Police Station- Tishiauta, P.O. Nari Khurd, District- Vaishali at present Govt. Quarter No. 36/48 Shastri Nagar, Patna, Police Station- Shastri Nagar, District- Patna.

.... Petitioner

Versus

1. The State of Bihar.
2. Smt. Kirtika Kumari Nana Prashann Narayan Choudhary, resident of Adarsh Nagar, Road No. 3B, Gram Panchayat Dhurlakh, Police Station- Samastipur Mohalla- District- Samastipur.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan

For the Opposite Party/s : Mr. Binod Kumar

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2. 15-12-2016 Heard Sri Sanjiv Ranjan, learned counsel for the petitioner and Sri Binod Kumar, learned Addl. Public Prosecutor.

The petitioner, husband of the complainant/opposite party no. 2, has prayed for grant of anticipatory bail in Complaint Case No. 2789 of 2011/Tr. No. 4363 of 2014 registered for offence under Section 498(A) of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act, 1961.

At the very outset, it was submitted by learned counsel for the petitioner that for the same accusation, the complainant had earlier filed a complaint case, vide Complaint Case No. 266 of 2005, Tr. No. 1838 of 2006. The petitioner, in the



case apprehending his arrest, had approached this Court for grant of anticipatory bail and prayer for grant of anticipatory bail of the petitioner was allowed by a Bench of this Court by order dated 19-03-2007 passed in Cr. Misc. No. 36544 of 2006 (**Annexure – 3** to the petition). It has been argued that privilege of anticipatory bail was granted by this Court primarily on the ground that the complainant herself had left the house of the petitioner in the year 2003, thereafter, the petitioner had filed a restitution case and subsequently complaint case was filed. It has been argued that once in relation to same accusation, the petitioner was extended the privilege of anticipatory bail, at subsequent stage, on the same set of accusation, the petitioner is not required to be detained. He submits that in earlier case i.e. Complaint Case No. 266 of 2005, the petitioner had also filed a quashing application, vide Cr. Misc. No. 109 of 2008. The said quashing application was allowed on 05-05-2010 (**Annexure – 4** to the present petition) on the ground of lack of territorial jurisdiction. This Court, while setting aside the entire proceeding, had directed to return the complaint petition to the complainant for bring presented before the court of competent jurisdiction. He submits that thereafter, the complainant, in relation to the same allegation and same fact, has filed the present complaint petition. He has referred to the date of



occurrence mentioned in the present complaint petition as well as earlier complaint petition, which is same i.e. between 03-05-1996 and 13-03-2005.

Learned Addl. Public Prosecutor was not in a position to dispute this fact, since in **Annexure – 1** i.e. present complaint petition i.e. Complaint Case No. 2789 of 2011, the date of occurrence has been mentioned as 03-05-1996 to 13-03-2005 and similar date has been mentioned in Complaint Case No. 266 of 2005 (**Annexure 2** to the present petition).

This Court is of the opinion that once on same accusation, the petitioner was extended the privilege of anticipatory bail by this Court, in subsequent complaint on the same accusation the petitioner may not be denied the privilege of anticipatory bail. In that view of the matter, the Court is of the considered opinion that it is a fit case for extending the privilege of anticipatory bail.

Accordingly, in the event of arrest or surrender within a period of six weeks from today, let the petitioner namely Prabhat Kumar be enlarged on bail on furnishing bail-bond of **Rs. 10,000/-** (ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Hajipur in connection with Complaint Case No. 2789 of 2011/Tr. No.



4363 of 2014, subject to condition as laid down under Section
438(2) of the Cr.P.C.

(Rakesh Kumar, J.)

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