

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4212 of 2016

Arising Out of PS.Case No. -370 Year- 2015 Thana -GARDANIBAGH District- PATNA

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Dr. Shayan Ahmad Son of Dr. late Ahmad Mohalla- Kotwachock, P.s town
in the district of Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. Fauzia Arshi, aged about 30 years W/o Dr. Shayan Ahamd, D/o late Zayauddin Mallik House No. B/155,Road No. A/11, Alinagar Colony, P.O. Anisabad, P.s Gardanibag, in the town and district of Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey
For the Opposite Party/s : Mr. Md.Nazir Ansari(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

03/ 15-03-2016 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 Section 498A of the Indian Penal Code and 3/4 of Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of the dowry demand.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the informant and is ready to keep the informant as wife with full

dignity and honour, statement to that effect has been made in paragraph 9(v) of the petition, which reads as follows:-

“That the petitioner is still ready to keep the informant with himself if she live with this petitioner peacefully with dignity at home and not to run away to her sister house etc etc.”

It is further submitted that since the informant deserted the petitioner the old mother of the petitioner wanted to get him married but he has not performed second marriage, statement to that effect has been made in paragraph 9(iv) of the petition, which reads as follows:-

“That the petitioner found that the informant was not interested to live with him and old mother only in family and going always out side of the country to her sister at USA and Delhi and in spite of attempt of this petitioner and filing application before Emarte Sariya, refused by her and thereafter filing this false case, and as such the old mother was facing too much problem for want of lady at home to see her and this petitioner, and as the informant was away for the last two years from the house of this petitioner, upon the advice of her mother this petitioner arranged for his 2nd marriage. But no marriage was solemnized.”

Counsel for the informant submits that the informant is ready to accept the offer of the petitioner but information has information that the petitioner has performed second marriage and apprehensive due to the cruel attitude of the

petitioner.

In the circumstances, both sides agree to appear before the learned court below on 30.03.2016 when the petitioner will take the informant to keep her with him with dignity and honour.

The informant is apprehensive that, though, the petitioner is resident of Jehanabad but usually he resides in Patna and he wants to keep her at Jehanabad whereas it is submitted by learned counsel for the petitioner that the petitioner is still ready to keep her with himself wherever he usually resides but he usually resides at Jehanabad.

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 Chief Judicial Magistrate, Patna in connection with Gardanibagh P.S. Case No. 370 of 2015, 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 by the learned court below in three eventualities:- (i) on

substantial restoration of the matrimonial harmony; (ii) or if the informant gets reluctant to reconcile the issue; and (iii) or if the informant fails to appear before the learned court.

The provisional bail will not be confirmed by the learned court below if substantive proof comes that the petitioner has performed second marriage and in that eventually the petitioner will surrender and pray for regular bail.

(Dinesh Kumar Singh, J)

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