

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36199 of 2016

Arising Out of PS.Case No. -49 Year- 2016 Thana -GAUNAHA District-
WESTCHAMPARAN(BETTIAH)

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Sanjay Sah, son of Late Jugeshwar Sah, resident of Village- Belwa Bahuari,
P.S.- Gaunaha, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Durgesh Devi, D/o Harendra Prasad, resident of Village- Thori, P.S.-
Sahodara, District- West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Aditya Nath Jha

For the Opposite Party/s : Mr. Smt. Anita Kumari Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

03/ 27-09-2016

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 the
offences punishable under Sections 498A, 494 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 learned counsel for the
petitioner that earlier the informant filed Complaint Case No.
830C/2012, against the petitioner, levelling accusation under

Sections 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act, wherein the petitioner has been granted provisional anticipatory bail on readiness to make payment of Rs.800/- per month to the informant and the said amount is being paid to the informant. It is further submitted that the petitioner has not performed second marriage, statement to that effect has been made in paragraph 9 of the petition, which reads as follows:-

“That in present F.I.R., informant intentional alleged about second marriage of petitioner though he has not solemnized his second marriage at all and seeing the attitude of informant it is very difficult for the petitioner to live with her peacefully.”

It is submitted by learned counsel for the informant that the informant is not ready to resume the conjugal life. Though, the order dated 22.08.2016 reflects that earlier the submission on behalf of the informant was made that the informant is ready to resume the conjugal life. It is further submitted that since the petitioner has performed second marriage the informant is not ready to resume the conjugal life.

Considering the inconsistent stand of the parties, let the above named petitioner be released on provisional anticipatory bail for four 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, West Champaran at Bettiah in connection with Gaunaha P.S. Case No. 49 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Let the learned court below conduct an enquiry with regard to factum of second marriage and if, prima facie, it is found that the petitioner has not performed second marriage then the provisional bail will be confirmed by the learned court below but if, prima facie, it is found that the petitioner has performed second marriage in that eventuality the petitioner will surrender and pray for bail.

(Dinesh Kumar Singh, J)

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