

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40967 of 2016

Arising Out of PS.Case No. -139 Year- 2014 Thana -SAMASTIPUR COMPLAINT CASE District-
SAMASTIPUR

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1. Dilip Sah son of Sita Ram Sah Resident of Village-Chhoti Bhusahi, P.S.-
Bochaha, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Munni Devi Wife of Dilip Sah Resident of Village-Chhoti Bhusahi, P.S.-
Bochaha, District- Muzaffarpur at Present daughter of late Dhaneshwar Sah,
resident of Village- Bishanpur Hakimabad, P.S.- Muffasil, District-
Samastipur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surya Narayan Roy

For the Opposite Party/s : Mr. Anuj Kumar Srivastava

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

2 20-09-2016

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 323 and 498A/34 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. 8 of the petition which reads as follows:

“The petitioner is ready to keep complainant with full honour and dignity but it is the complainant who is not ready to live with petitioner. ”

It is further submitted that similar was the stand of the petitioner before the learned court below but it has wrongly been submitted by the learned P.P. that the petitioner performed second marriage but the petitioner has not performed second marriage though statement to that effect has not been made in the petition.

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 arrest or surrender before the learned Court below within a period of six 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, Samastipur in connection with Complaint Case No. 139 of 2014 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 in three eventualities – (i) if the matrimonial harmony is substantially restored or (ii) if the complainant fails to appear before the learned court below or (iii) if the complainant deliberately gets reluctant to reconcile the issue but the learned court below will not confirm the provisional bail if the substantial proof comes that the petitioner has performed second marriage and in that eventuality the petitioner will surrender and pray for regular bail.

(Dinesh Kumar Singh, J)

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