

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41866 of 2016

Arising Out of Complaint Case No. -835 Year- 2014 Thana -ROHTAS COMPLAINT CASE
District- SASARAM (ROHTAS)

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Dhananjay Sah, son of Sri Badan Sah

..... Petitioner/s

Versus

State of Bihar & Anr

..... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sada Nand Roy, Advocate

For the Opposite Party/s : Mr. Sri Shyam Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 23-09-2016 Heard learned counsels for the petitioner and the State.

The petitioner being the husband of the complainant is apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 498A of the Indian Penal Code and 4 of the Dowry Prohibition Act.

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

Learned counsel for the petitioner submits that the petitioner admits his marriage with the complainant and he is

ready to keep the complainant as wife with full dignity and honour. A statement to that effect has been made in para 12 of the petition which reads as follows:-

"That even from today, the petitioner has all love and affection with the victim lady and is ready to stay with her with all love and respect with human dignity."

It is further submitted that similar was the stand of the petitioner before the learned Court below, but the complainant refused to accept the offer of the petitioner, since she alleged that the petitioner has performed second marriage, though there was no such accusation in the complaint petition.

It is further submitted by learned counsel for the petitioners that the petitioner has not performed second marriage. A statement to that effect has been made in paragraph no.10 of the petition, which reads as under :-

"That as per the allegation made by the complainant, it is stated that the petitioner has performed second marriage but it is absolutely incorrect and baseless and never he is having any illicit relation with his aunt and the aforesaid type of allegation is made only for defaming the petitioner."

In view of the above mentioned specific stand of the

petitioner, this Court is inclined to give one opportunity to the complainant to reconcile the issue.

Considering the aforesaid facts and 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 twelve weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned SDJM, Bikramganj, Rohtas in connection with Complaint Case No.835/2014, subject to the conditions as laid down under Section 438(2) Cr.P.C.

Let the learned court below issue notice to the complainant for her appearance. 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 learned court below in three eventualities (i) if the matrimonial harmony is substantially restored (ii) if the complainant fails to appear before the learned court below or (iii) if the complainant gets reluctant to reconcile the issue.

It is made clear that the provisional bail of the

petitioner will not be confirmed by the learned Court below, if substantial proof comes that the petitioner has performed second marriage and in that event, the petitioner will surrender and pray for regular bail.

(Dinesh Kumar Singh, J)

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