

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29863 of 2016

Arising Out of PS.Case No. -712 Year- 2015 Thana -MADHUBANI COMPLAINT CASE District-
MADHUBANI

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Md. Zishan Ali Son of Md. Obaidur Rahman resident of village - Maksuda
Bherihar Toli, P.S. Sakari, District - Madhubai

.... Petitioner/s

Versus

1. The State of Bihar
2. Rijwana Khatoon Wife of Md. Zishan Ali & D/o Navi Hasan resident
of village - Maksuda Bherihar Toli, P.S. Sakari, District - Madhubai

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md.Imteyaz Ahmad

For the Opposite Party/s : Mr. Sri Shantanu Kumar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

03/ 27-10-2016

Heard learned counsels for the petitioner, State
and the opposite party no. 2.

The petitioner is apprehending his 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 3/4 of the Dowry
Prohibition Act.

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

The petitioner and the complainant are present in
the Court.

It is submitted by learned counsel for the petitioner that the petitioner was never married with the complainant rather she was married with one Md. Akhtar. The complainant was never divorced by her husband. Moreover, the story of marriage of the complainant with the petitioner reflects complete negation to the provisions of Muslim Law.

Counsel for the complainant submits that the complainant claims to have married with the petitioner on 02.11.2014 and still ready to resume the conjugal life.

Considering the fact that the factum of marriage is in dispute, 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 Additional Chief Judicial Magistrate, Madhubani in connection with C.R. Case No. 712 of 2015/706 of 2015, 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 marriage. If the learned court below, prima facie, comes to a conclusion that the petitioner was never

married with the complainant then the provisional bail of the petitioner will be confirmed by the learned court below, but if the learned court below comes to a conclusion otherwise then the petitioner will surrender and pray for bail.



(Dinesh Kumar Singh, J)

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