

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42811 of 2016

Arising Out of PS.Case No. -1301 Year- 2015 Thana -COMPLAINT CASE District- KISANGANJ

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1. Md. Azam @ Azam Alam @ Md. Azam Alam son of Jahiruddin resident of Village- Domohani, P.S.- Bahadurganj and District- Kishanganj.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sahista Begum wife of Md. Azam Alam, daughter of Jhari Baux @ Anwar Alam resident of Village- Domohani, P.S.- Bahadurganj and District- Kishanganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Utsav Kumar, Advocate
For the State : Mr. Sri Satya Nand Shukla, A.P.P.
For the Complainant : Mr. Dilip Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 18-10-2016 Heard learned counsel for the petitioner and the State.

The petitioner being the husband of the complainant is apprehending his arrest in a complaint case in which processes have been directed to be issued after cognizance being taken for the offences punishable under Sections 323, 504, 384, 498A, 120B of the Indian Penal Code.

The basic accusation is of torture.

It is submitted by learned counsel for the petitioner that petitioner admits his marriage with the complainant. Though, initially statement was made in para-12 of the petitioner that petitioner is ready to keep and maintain the complainant as wife but with regard to the child, the right was

reserved till the outcome of the D.N.A. test report. Paragraph-12 reads as follows:-

“That the petitioner is ready to keep and maintain the opposite party no. 2 as wife but with respect to the child he reserves his claim on the outcome of the DNA test report.”

A supplementary affidavit has been filed to the effect that now the petitioner is ready to keep and maintain the complainant and child and also not raise the question or dispute with regard to parentage of the child. Statement in paragraphs 4 and 5 of the supplementary affidavit which reads as follows:-

“4. That in compliance of the direction of the Hon’ble Court the petitioner seeks the permission of the Hon’ble Court to withdraw the statement made in paragraph no. 10 of the main bail application which states as follows:-

“That the petitioner is ready to keep and maintain the opposite party no. 2 as his legally wedded wife but with respect to the child he will decide on the basis of the DNA report only as he refutes the parentage to her.”

“5. That instead of the above mentioned statement made in paragraph no.-10 of the main bail application, the following statement may be read:-

“That the petitioner is ready to keep and maintain the opposite party no. 2 as his legally wedded wife and is also ready to maintain and take good care of the child as well and will not raise the question or dispute of parentage again.”

It is submitted by the learned counsel for the complainant that complainant accepts the present offer of the petitioner.

Both the petitioner and complainant agree to appear before the learned court below on 9th of November, 2016 when the petitioner will take the complainant and the child to keep her as wife with full dignity and honour.

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, Kishanganj in connection with Complaint Case No. 1301C 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 within six months by the learned court below in three eventualities:- (i) on substantial restoration of the matrimonial harmony; (ii) or if the complainant gets reluctant to reconcile the issue; and (iii) or if the complainant fails to appear before the learned court.

(Dinesh Kumar Singh, J)

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