

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43374 of 2016

Arising Out of PS.Case No. -49 Year- 2015 Thana -MAHILA PS District- GAYA

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Md. Shaukat son of Md. Yunush

.... Petitioner/s

Versus

1. The State of Bihar
2. Saba Parveen D/o Md. Kalim

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad, Advocate

For the Opposite Party/s : Mr. Sri Sanjay Kumar Tiwary 1, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 05-10-2016

Heard learned counsels for the petitioner and the State.

The petitioner being the husband of the informant is apprehending arrest in a case registered for the offences punishable under Sections 498A, 323, 494/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

The accusation is of torture for non-fulfillment of the dowry demand and performing second marriage.

Learned counsel for the petitioner submits that the petitioner admits his marriage with the informant and birth of a child. The petitioner denies the factum of second marriage and he is ready to keep the informant as wife with full dignity and honour. A statement to that effect has been made in para 9 of the petition which reads as follows:-

"That so far allegation of solemnization of second

marriage by the petitioner is concerned it is stated that it is totally wrong and false allegation levelled against the petitioner of second marriage, rather the facts remains that the petitioner has not solemnized any second marriage with anyone, and he is always ready to keep the informant with all dignity and honour, but the informant is not ready to live with the petitioner."

Similar was the stand of the petitioner before the learned Court below, but the informant failed to appear.

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 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 CJM, Gaya, in connection with Mahila P.S. Case No.49/2015, subject to the conditions as laid down under Section 438(2) Cr.P.C.

Let the learned court below issue notice to the informant for her appearance. On her appearance, the petitioner will take the informant 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 informant fails to

appear before the learned court below or (iii) if the informant gets reluctant to reconcile the issue.

The provisional bail of the petitioner will not be confirmed, if 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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