

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20714 of 2015

Arising Out of PS.Case No. -648 Year- 2014 Thana -KOTWALI District- PATNA

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Padamsambhava Srivastava. S/o Late Himanshu Srivastava. Resident of Block-8, Flat No. 5, High Court residential Complex, Adalatganj, Budha Marg, P.S.- Kotwali, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Madhuri Srivastava @ Madhuri Kumari @ Madhuri Mishra, W/o Padmasambhava Shrivastava. Resident of Flat No. 5, Block-8, High Court residential Complex, Adalatganj, Budha Marg, P.S.- Kotwali, District and Town - Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Tarun Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Akbar Ali, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

16 17-01-2017 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 and 506/34 of the Indian Penal Code.

Basic accusation is of torture after 23 years of marriage.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the informant and birth of



two children. The informant and the children are still residing in the High Court quarter of the petitioner since the petitioner is an employee of the Patna High Court.

This Court vide order dated 31st of March, 2016, referred the matter to the Mediation Centre of Bihar Legal Services Authority, but the report of the Mediator dated 04.05.2016, kept at "Flag-A", reflects that the issue could not be resolved through the process of mediation.

Learned counsel for the petitioner further submits that the mediation could not succeed due to the apathetic attitude of the informant, though, the petitioner was ready to keep the informant as wife with full dignity and honour. The informant has also filed Matrimonial Suit No.5882 of 2014 with a prayer for divorce, which is still pending. In the said matrimonial suit the informant has filed a petition under section 36 of the Special Marriage Act before the Principal Judge, Family Court, Patna on 05.05.2015 for grant of maintenance wherein the petitioner was directed to pay Rs.5000/- per month to the informant towards her maintenance from the date of filing of the petition i.e. 05.05.2015 and Rs.10000/- as one lump sum amount as litigation cost. The counsel for the petitioner further submits that the petitioner has



already paid the litigation cost of Rs.10000/- and is making payment of Rs.5000/- from the date of passing of the order i.e. 18.08.2016, though, the maintenance amount has been deposited before the learned Court below since the petitioner has no bank account number of the informant. It is further submitted that the petitioner has preferred an application for modification of the order of maintenance dated 18.08.2016 and is ready to deposit the arrears of amount, subject to disposal of the said modification application.

Learned counsel for the informant submits that due to the torture inflicted by the petitioner the informant had to file matrimonial suit with a prayer for divorce. However, this is not in dispute that the informant is residing with the children in the quarter allotted to the petitioner by the High Court and considering the same maintenance amount has been awarded. Though, the mediation could not succeed due to the apathetic attitude of the petitioner, but the informant is not opposing the provisional bail of the petitioner provided the petitioner makes payment of arrears of maintenance amount as awarded by the learned Court below. It is further submitted that the informant undertakes to submit her bank account number on affidavit before



the learned court below within a period of three weeks.

Considering the rival submission of the parties, in view of the fact that the issue is not likely to be reconciled at present and in view of the pendency of the Matrimonial Suit No.5882 of 2014 filed by the informant with a prayer for divorce, let the above named petitioner be released on anticipatory bail provisionally for four months, in the event of arrest or surrender before the learned Court below within a period of 12 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 the learned Chief Judicial Magistrate, Patna, in connection with Kotwali P.S. Case No.648/2014, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The provisional bail of the petitioner will be confirmed by the learned Court below on deposit of the arrears of maintenance amount as directed by the learned Principal Judge, Family Court, Patna in Matrimonial Suit No.5882/2014 vide order dated 18.08.2016.

The aforesaid payment will be subject to any order being passed in matrimonial or maintenance proceeding.

Three consecutive defaults in making payment by the



petitioner will give liberty to the informant to file an application for cancellation of bail of the petitioner.

The present order will not preclude the parties to reconcile the issues otherwise.

(Dinesh Kumar Singh, J)

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