

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42103 of 2017

Arising Out of PS.Case No. -33 Year- 2017 Thana -MAHILA P.S. District- NAWADA

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1. Sarwar Alam @ Md. Sarwar Alam, son of Late Gulam Rubbani, Resident of Village- Ansar Nagar, Police Station Bundelkhand O.P. Nawada, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Chandra Sen Prasad Singh

For the Opposite Party/s : Mr. Sri Umesh Lal Verma

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

5 27-11-2017

Heard learned counsel for the petitioner and the State.

The petitioner apprehends arrest in Nawada Mahila P.S. Case No. 33 of 2017 instituted for the offence under Sections-498A, 504/34 of the Indian Penal Code and 3/4 of Dowry Prohibition Act.

It has been submitted on behalf of the petitioner that he wants to keep his wife (informant) with him with full dignity and honour. He has filed a petition in the court below u/S 9 of Hindu Marriage Act for restitution of conjugal rights prior to filing of the instant case by the informant. He is always ready to keep his wife with full dignity and honour.

Notice has been issued to opposite party No. 2 but she did not appear.

In such circumstances, this application is disposed



off with direction to petitioner to surrender before the Court below i.e. learned Chief Judicial Magistrate, Nawada within a period of four weeks from the date of receipt of the order in connection with Nawada Mahila P.S. Case No. 33 of 2017, along with Affidavit that he will keep the wife with full dignity and care. In the event the Court below finds that petitioner is willing to keep his wife with full dignity and care, the court below will release the petitioner on provisional bail to its own satisfaction for a period of six months and will issue notice to informant (wife) and in the event wife appears and agree to go with the husband, the court below will monitor the relationship between the parties by calling both of them every month in the court and in the event the court below finds that good conjugal relationship has been restored between husband and wife and wife does not make any complain about the physical and mental torture committed by the petitioner during the period of her stay with him or court below finds that good conjugal relationship could not be restored on account of indifferent attitude of wife or the wife does not appear even after valid service of notice, the court below shall confirm the provisional bail of the petitioner after six months.

It is made clear that in the event the petitioner does not surrender in the court below along with Affidavit, as ordered



above, or the petitioner refuses to keep the wife on her appearance in court or wife during the period of monitoring makes complain about physical and mental torture committed by the petitioner, it will be open to the court below to pass appropriate order in accordance with law including cancellation of provisional bail of the petitioner without taking into consideration the observations made above by this Court.

(Sanjay Priya, J)

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