

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No 34990 of 2016

Arising Out of PS.Case No. -39 Year- 2016 Thana -SIMRI BAKHTIARPUR District- SAHARSA

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Shatrughan Paswan Son of Julum Paswan Resident of Village- Hilalpur,
P.S. Industrial Area, Hajipur, District- Vaishali at Hajipur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Shashi Kumari Wife of Sri Shatrughan Paswan, Daughter of Sri Ram
Karan Paswan Resident of Village- Sitanabad, P.S. Bakhtiarpur, District
Saharsa.

.... Opposite Party/s

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CORAM: HON'BLE MR JUSTICE DINESH KUMAR SINGH

ORAL ORDER

7 04-05-2017

Heard learned counsels for the petitioner, informant
and learned APP, for the State.

Petitioner, being the husband, is apprehending his
arrest in Bakhtiarpur Police Station Case No 39 of 2016 dated
28.01.2016 registered under Sections 341, 323, 498A, 406, 420,
376 of Indian Penal Code in which, on conclusion of investigation,
final form/chargesheet was submitted under Sections 498A, 341,
406, 420, 494 of IPC.

The prosecution case is that the petitioner is said to
have married with the informant on 08.05.2005 while the
petitioner was posted in Railway Store Department at Hajipur.
Subsequent to marriage, two children were born who, at the time
of filing the case, were 9 years and 6 years of age. The petitioner



never took the informant to matrimonial home and he always kept her in his place of posting as a result of which the informant did not know about his first marriage but after 11 years of marriage when the informant was taken to the matrimonial home then she came to know that petitioner was already married with Rina Devi. On enquiry, the petitioner has replied that he has no connection with the first wife. It is alleged that the father of the informant, through bank transfer, paid Rs 5 lacs for the maintenance of the informant and her two children, the stipulation was to purchase the land but the land was purchased by the petitioner in his own name and, thereafter, deserted the informant. On 30.09.2015, the petitioner handed over a cheque of Rs 5 lacs to the informant which was dishonoured.

Learned Senior Counsel reluctantly submits that the petitioner denies the factum of marriage. However, he is ready to make payment of the interim maintenance of Rs 6,000/- as provided by Principal Judge, Family Court, Saharsa in Miscellaneous Case No 162 of 2014 by order dated 22.11.2016.

Learned Senior Counsel for the informant submits that the informant has been cheated by the petitioner and he does not deserve bail. It is further submitted that the Principal Judge, Family Court, Saharsa in Miscellaneous Case No 162 of 2014, by



order dated 22.11.2016, granted interim maintenance of Rs 3,000/- each to both the children from the date of filing the petition that is 20.06.2016 but the same has not been paid. Hence, the petitioner does not deserve any sympathetic consideration for bail.

Considering the rival submission of the parties, in the present proceeding, the issue of the factum of marriage cannot be resolved. However, the petitioner is ready to make payment of Rs 4,000/- to the informant from June, 2017 by depositing the same in the bank account of the informant by second week of every succeeding month and further to make payment of the interim maintenance amount, as awarded by the Principal Judge, Family Court in Miscellaneous Case No 162 of 2014 in giving the arrears within a period of six weeks. Learned Senior Counsel for the informant is ready to accept the offer of payment reluctantly and, hence, at present is not opposing the prayer for bail. The informant undertakes to submit her bank account number on affidavit before the learned Court below within a period of three weeks from today.

This Court is of the view that rejecting the prayer for bail of the petitioner will jeopardize not only the welfare of the children but also the informant. In the circumstances, in order to save the informant and the children from destitution and vagrancy



with a lurking hope that the issue may resolve in near future, let the above named petitioner be released on anticipatory bail in the event of his arrest or surrender before the learned Court below within a period of 12 weeks from today on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, Saharsa in Bakhtiarpur PS Case No 39 of 2016 subject to all conditions as laid down in Section 438 (2) of Criminal Procedure Code.

The above mentioned payment will be subject to any order being passed in Matrimonial, Maintenance or any other connected proceedings.

Three consecutive defaults in making payment will give liberty to the informant to file application for cancellation of bail of the petitioner.

The present order, in no way, will preclude the parties to resolve the issue otherwise.

(Dinesh Kumar Singh, J)

M.E.H./-

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