

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.39983 of 2016**

Arising Out of PS.Case No. -164 Year- 2016 Thana -MASRAKH District- SARAN

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Aabid Hussain, son of Late Daroga Ansari @ Late Daroga Miya, village-  
Karn Kudria PS-Mashrakh, Distt-Saran

.... .... Petitioner/s

Versus

The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Abdul Hakim, Advocate

For the Opposite Party/s : Mr. Sri Atul Chandra, APP

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**ORAL ORDER**

4      17-02-2017                      Heard learned counsels for the petitioner, informant and  
the State.

The petitioner being the husband of the informant is apprehending arrest in a case registered for the offences punishable under Sections 341, 323, 324, 504, 506 and 498A of the Indian Penal Code.

The basic accusation is of torture and making assault. It is further alleged that the informant was driven out from the matrimonial house and the petitioner has performed second marriage without consent of the informant.

Learned counsel for the petitioner submits that the petitioner admits his marriage with the informant about 13 years prior to lodging of the present FIR and birth of three children.



Thereafter, the petitioner performed second marriage in 2003 but after 14 years of the second marriage the present case has been lodged. The second marriage is permissible under the *Mohammedan Law*, though the accusation has been levelled in the FIR about performance of second marriage but the case has not been registered under section 494 IPC. It is further submitted that the petitioner is ready to give share from his property to the informant and the three children or the petitioner is ready to keep them with dignity and honour. A statement to that effect has been made in paragraph 6 of the petition which reads as follows:-

*".....in as much as the petitioner has always been ready to keep the informant and her children with him and maintain them with full dignity."*

It is further submitted that earlier also the informant filed complaint case with similar accusation under section 498A of the Indian Penal Code wherein at the level of section 244 of the Cr.P.C. before charge no witnesses were produced, as a result, the learned Judicial Magistrate, Saran at Chapra, vide order dated 04.03.2011 discharged the petitioner and thereafter the present case has been lodged.

It is submitted by learned counsel for the informant that



the informant is ready to resume the conjugal life provided she being treated with dignity and honour and her children are being provided basic amenities and appropriate money for their education.

Learned counsel for the petitioner submits that the petitioner is ready to keep them with dignity and honour and will provide proper education to the children.

Both sides agree to appear before the learned court below on 27<sup>th</sup> of February, 2017 when the petitioner will take the informant to keep her as wife with full dignity and honour along with the children.

Considering the present stand of the parties, 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 ACJM-VIII, Saran, in connection with Mashrakh P.S. Case No.164/2016, subject to the conditions as laid down under Section 438(2) Cr.P.C.

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.

**(Dinesh Kumar Singh, J)**

Ashwini/-

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