

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.55716 of 2015

Arising Out of PS.Case No. -234 Year- 2015 Thana -BARSOI District- KATIHAR

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Md. Shukur @ Abdul Sakur son of Md. Taiyab @ Taiyab Ali resident of
Village- Baltar, P.S. Barsoi, District- Katihar.

.... Petitioner/s

Versus

1. The State of Bihar
2. Majeda D/o Md. Kamruddin resident of Village- Baltar, P.S. Barsoi,
District- Katihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Musowir

For the Opposite Party/s : Mr. Smt. Anuradha Singh (App)

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

ORAL ORDER

12/ 07-02-2017

Heard learned counsels for the petitioner, State

and the informant-opposite party no.2.

The petitioner being the husband of the informant is apprehending his arrest in a case registered for the offences punishable under Sections 341, 323, 307, 498A and 504/34 of the Indian Penal Code.

The basic accusation is of torture and made attempt to cause burn injury to the informant.

Learned counsel for the petitioner submits that the petitioner admits his marriage with the informant 10 years prior to the lodging of the FIR and birth of five children. It is further submitted that the maintenance case is still pending.

On the joint prayer of the parties the matter was



referred vide order dated 08.12.2015 to the Mediation and Conciliation Centre of the State Legal Services Authority. The report of the Mediator dated 03.02.2016 at Flag 'A' reflects that both sides reconciled the issue and they decided to resume the conjugal life, but subsequent to mediation the petitioner did not find the conduct of the informant conducive, hence, he is now not ready to keep her. The matter was adjourned several occasions to get the issue reconciled but the issue could not be resolved.

It is claimed by the petitioner that all the five children are residing with him.

Learned counsel for the informant submits that the informant is ready to resume the conjugal life and abide by the terms of agreement arrived between the parties during mediation, but contrary to the agreement arrived at now the petitioner maliciously does not want to keep her. It is also alleged that two youngest infant kids have been forcibly taken away by the petitioner recently.

In the alternative, it is submitted by learned counsel for the petitioner that the petitioner is ready to make payment of Rs.2,500/- per month from March, 2017 to the informant by depositing the same in her account by second



week of every succeeding month.

Counsel for the informant submits that the informant is ready to accept the offer of the petitioner and undertakes to submit the bank account number on affidavit before the learned court below within a period of four weeks.

Considering the present stand of the parties, though, the petitioner present stand is contrary to the terms of agreement arrived during mediation, but keeping in view of the security and up bringing of the minor five children, in order to save the informant and the five children from destitution and vagrancy with a lurking hope that good sense will prevail and the issue may reconcile in 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 twelve 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 learned Chief Judicial Magistrate, Katihar in connection with Barsoi P.S. Case No. 234 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The present order will not preclude the informant for claiming the custody of the children in accordance



with law.

The aforementioned payment will be subject to any order passed in matrimonial, maintenance or connected proceedings.

Three consecutive defaults in making payment will give liberty to the informant 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.)

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