

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51302 of 2017

Arising Out of PS.Case No. -488 Year- 2016 Thana -COMPLAINT CASE District- KISANGANJ

1. Md. Israyeel, son of Samsuddin, resident of village- Sabodangi, P.S.
Sukhani, District- Kishanganj.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Afsana Khatoon, wife of Md. Israyeel, D/o Mustafa, resident of village-
Sabodangi, at present resident of Village- Rahim Nagar, Pathamari, P.S.
Pathamari, District- Kishanganj.

.... Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Braj Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3/ 20-12-2017

Heard learned counsel for the petitioner and learned

APP for the State.

Petitioner apprehends his arrest in **Complaint Case No.488-C of 2016** instituted for the offence under Section(s) 323, 498-A/34 Indian Penal Code and Section 4 of the Dowry Prohibition Act.

Counsel for the petitioner has submitted that he is ready to keep the wife but she is not ready to live with him.

Notice was issued to the Opposite Party No.2, which has validly been served upon her, but none has appeared on her behalf.

In such circumstances, this application is disposed off with direction to petitioner to surrender before the Court



below i.e. **Sub-Divisional Judicial Magistrate, Kishanganj**, within a period of four weeks from date of receipt of this order in connection with **Complaint Case No.488-C of 2016**, along with Affidavit that he will keep the wife with full dignity and care and in that event the Court below will release the petitioner on provisional anticipatory bail to its own satisfaction for a period of six months and will issue notice to the wife-Opposite Party No.2 and in the event the Opposite Party No.2 becomes ready to go and live with the petitioner, 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 have 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 service of notice, the Court below will 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 during the period of monitoring the wife makes



complain about physical and mental torture committed by the petitioner to which the Court below is satisfied or on appearance of wife the petitioner does not become ready to take her with him, 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.

This application is, accordingly, disposed off.

(Sanjay Priya, J)

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