

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No46765 of 2016

Arising Out of PS.Case No. -938 Year- 2015 Thana -PATNA COMPLAINT CASE District-
PATNA

=====

Md Imtiaz S/o Late Md Iliyas R/o Village- Ahizan, Usmanpur, P.S.-
Athmalgola, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Rajda Khatoon D/o Late Wali Alam @ Chhotan, W/o Md Imtiyaz R/o
Village- Ahizan, Usmanpur, P.S.- Athmalgola, District- Patna.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr Manish Kumar, Advocate
For the S t a t e : Mr Mukeshwar Dayal, APP

=====

CORAM: HON'BLE MR JUSTICE DINESH KUMAR SINGH

ORAL ORDER

5 **04-04-2017** Heard learned counsel for the petitioner,

complainant and Mr Mukeshwar Dayal, for the State. Petitioner

and the complainant are also present in person.

Petitioner, being the husband of the complainant, is
apprehending his arrest in Complaint Case No 938 (C) of 2015
wherein process has been directed to be issued after taking
cognizance for offences under Section 498A of Indian Penal Code.

Basic accusation is of torture for non-fulfillment of
dowry demand.

Learned counsel for the petitioner submits that the
petitioner admits his marriage with the complainant but the



complainant deserted him as a result he claims to have given Talaq to the complainant in the year 2013 and subsequently filed Matrimonial Suit No 208 of 2013 on 25.09.2013 for confirmation of the Talaq and, thereafter, on 14th of December 2015, the present complaint was filed. In view of the Talaq made effective, the petitioner cannot keep the complainant as wife.

However, the petitioner is ready to make payment of Rs 2,500/- (Rupees Two Thousand & Five Hundred) from May, 2017 to the complainant by depositing the same in the bank account of the complainant by 02nd week of every succeeding month.

Learned counsel for the petitioner submits that the petitioner performed love marriage with the complainant when she was minor but after the marriage, when the complainant came to the petitioner's house, his family members tortured her as a result the petitioner filed Complaint Case No 404C of 2013 against his parents and other family members alleging torture by them. The complainant denies the factum of Talaq and is still ready to resume conjugal life. However, she is ready to accept the offer of payment reluctantly and, hence, at present is not opposing the prayer for bail of the petitioner. The complainant undertakes to submit her bank account number on affidavit before the learned Court below within a period of three weeks from today.



Considering the rival submission of the parties, since the issue is not likely to be resolved at present, in order to save the complainant from destitution and vagrancy for the present, with a lurking hope that the issue may resolve 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 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 Sub Divisional Judicial Magistrate, Barh in Complaint Case No 938C of 2015 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 complainant 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./-

U			
---	--	--	--

