

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 44541 of 2016

Arising Out of PS.Case No. -579 Year- 2016 Thana -MUZAFFARPUR TOWN District-
MUZAFFARPUR

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Rakesh Kumar @ Pappu , son of Sri Dilip Rai @ Dilip Kumar Rai, resident
of Village – Rampur Dayal, P.S. – Piar, District – Muzaffarpur.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Ajay Thakur

Mr. Ravi Ranjan

For the Opposite Party/s : Mr. Anand Mohan Prasad Mehta

Smt. Bela Singh

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

5. 22-03-2017 Heard Sri Ajay Thakur, learned counsel assisted by
Sri Ravi Ranjan, learned counsel for the petitioner, Sri
A.M.P.Mehta, learned Addl. Public Prosecutor as well as Smt.
Bela Singh, learned counsel, who has appeared on behalf of
complainant/informant.

The petitioner has approached this Court under
Section 438 of the Code of Criminal Procedure, 1973 (for short
“Cr.P.C.”), with a prayer to extend the privilege of bail in the
event of his arrest or surrender.

A plea has been taken by the petitioner that prior to
lodging of the F.I.R., which was lodged on 26-08-2016, vide
Muzaffarpur Town P.S. Case No. 579 of 2016 for offence under
Sections 498(A), 406, 420, 313 of the Indian Penal Code, marriage
in between the petitioner and his wife/informant had already been



dissolved by mutual consent.

Learned counsel for the petitioner has placed reliance on Annexure – 6 to the petition i.e. copy of judgment dated 6th January, 2015 in Matrimonial (Divorce) Case No. 254 of 2013. By way of referring to paragraph – 7 of the judgment in divorce case, it has been argued that the informant/wife herself had admitted in the written statement before the court below that she was not interested to continue with the relationship and thereafter, by mutual consent, marriage was dissolved under Section 13(2) of the Hindu Marriage Act, 1955. Thereafter, the informant filed a complaint case, vide Complaint Case No. 1539 of 2015 in the court of learned Chief Judicial Magistrate, Muzaffarpur, which was referred to the police for its investigation and registration under Section 156(3) of the Cr.P.C. and thereafter, F.I.R., vide Muzaffarpur (Town) P.S. Case No. 579 of 2016 was registered.

Learned Addl. Public Prosecutor as well as Smt. Bela Singh, learned counsel for the informant have vehemently opposed the prayer for grant of anticipatory bail. It was submitted by learned counsel for the informant that a false affidavit was filed by the petitioner before the court below, wherein, it was indicated that agreed amount of Rs. 2,50,000/- (two lacs and fifty thousand) was credited to the account of the petitioner, however; no such amount has ever been paid to the petitioner.



Besides hearing learned counsel for the parties, I have perused the materials on record. The Court is at the moment considering the prayer for grant of anticipatory bail in the case, which was lodged in the year 2016 after the judgment and decree in Matrimonial (Divorce) Case No. 254 of 2013. On perusal of Annexure – 6 i.e. the judgment in matrimonial case, it is evident that the marriage was dissolved with mutual consent prior to registering F.I.R. in the present case.

In view of facts and circumstances, the Court is of the opinion that it is a fit case for extending the privilege of anticipatory bail.

Accordingly, in the event of arrest or surrender within a period of six weeks from today, let the petitioner namely Rakesh Kumar @ Pappu be released on bail 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, Muzaffarpur in connection with Muzaffarpur Town P.S. Case No. 579 of 2016, subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Rakesh Kumar, J.)

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