

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29722 of 2016

Arising Out of PS.Case No. -25 Year- 2015 Thana -SAKRA District- MUZAFFARPUR

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Lt. Col. Sandeep Kumar @ S. Kumar @ S. Kumar son of late Ram
Chandra Prasad House No. 455 Ward No. 3 new Colony Deoria P.S. Deoria
Dist Deoria U.P.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Naresh Singh, Advocate.

For the Opposite Party/s : Mr. Sri Ganesh Prasad Singh, APP

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

7 15-05-2017 Heard learned counsel for the petitioner, learned
counsel for the informant and Mr.Ganesh Singh, learned APP for
the State.

Petitioner being the husband of the informant is
apprehending his arrest in a case registered for the offences
punishable under Sections 341,323,379,504,498(A)/34 of the
Indian Penal Code and Section 34 of the Dowry Prohibition Act.

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

It is submitted by learned counsel for the petitioner that
petitioner being Lft. Col., in the Indian Army admits his marriage
with the informant on 19.11.2013 and is ready to keep the
informant as wife with full dignity and honour. A statement to that



effect has been made in Para 6 of the petition which reads as follows:-

“6. That no occurrence is taken place in the manner alleged rather the petitioner was/is ready to keep the informant with full honour and presties but the informant is not ready to live with her.”

The petitioner has also filed Matrimonial Case No. 498 of 2014 for restitution of conjugal right on 22.11.2014. Thereafter, the present FIR was lodged on 20.01.2015. However, now the petitioner has filed a Matrimonial Suit No. 420 of 2016 before the Principal Judge, Family Court, Deoria U.P but in view of his stand before this court, now the petitioner is ready to withdraw the same. The petitioner is making payment of 22 percent of the pay and allowances per month with effect from 08.10.2014 which is the date on which the informant submitted application claiming maintenance.

Learned counsel for the informant submits that she was being tortured and driven out from the matrimonial house hence she is so hurt with the conduct of the petitioner that she is not in a position, right now, to accept the offer of the petitioner to resume the conjugal life.

It is further submitted by the learned counsel for the informant that the order of the Brigadier for 22 percent of the



deductions was under challenge in appeal by the petitioner. However, it is submitted by the learned counsel for the petitioner that the said appeal has been disposed of with direction to the authorities to decide the issue of maintenance finally within a period of three months and he is ready to abide by the final order.

It appears that the matter was referred to the meditation centre vide order dated 13.02.2017 which suggests that the mediator requested for extending the period of meditation but since the petitioners and the informant are very much clear in their stand that they are not in favour of further meditation, hence the matter is being heard on merits.

Considering the rival submissions of the parties and keeping in view of the stand of the petitioner that he is ready to keep the informant as wife with full dignity and honour and 22 percent of salary and allowance is being paid every month to the informant which at present will save the informant from the destitution and vagrancy with lurking hope that the issue may reconcile in future, let the petitioner, above named, in the event of his arrest or surrender before the learned Court below within a period of 12 weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of learned



Additional Chief Judicial Magistrate Muzaffarpur in connection with Sakra P.S. Case No. 25 of 2015 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

However, the informant will have liberty to file an application for cancellation of bail of the petitioner if the petitioner defaults on three consecutive dates in making payment of the maintenance amount until it is altered by any competent authority or court of competent jurisdiction.

The present order will not preclude the informant to resume the conjugal life if she files such application before the learned court below then the learned court below will issue notice to the petitioner and the petitioner will be obliged to comply the undertaking given before this Court.

(Dinesh Kumar Singh, J)

Prakash/-

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