

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25778 of 2016

Arising Out of PS.Case No. -2 Year- 2014 Thana -AURANGABAD COMPLAINT CASE District-
AURANGABAD

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1. Md. Nausad Khan Son of Md. Jamaiyat Hussain @Md. Jamiyat Hussain
Khana Resident of Mohalla- Ansar Nagar, masjid Gali, PS Nawada District
Nawada.

.... Petitioner/s

Versus

1. The State of Bihar
2. Nigar Naz Wife of Md. Naushad Khan, D/o Rustam Ali Khan Resident
of Mohalla- Ansar Nagar, masjid Gali, PS Nawada District Nawada.At
Present residing at Kalami Mohalla- Aurangabad PS & District
Aurangabad.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Durgesh Nandan

For the Opposite Party/s : Mr. Sri Anil Prasad Singh

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

ORAL ORDER

08/ 03-04-2017

Heard learned counsel for the petitioner,

complainant-opposite party no 2 and Mr. J.N. Thakur, learned
counsel for the State.

The petitioner and the complainant are present
in the Court

The petitioner being the husband of the
complainant is apprehending his arrest in a complaint case
wherein processes have been directed to be issued after
cognizance being taken for the offences punishable under
Sections 498A, 379, 504 of the Indian Penal Code and 3/4 of



Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of the dowry demand.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant and birth of a female child but the petitioner gave Talak to the complainant according to Mohammdan Law and filed Matrimonial Suit No 36 of 2013 on 20.02.2013, for confirmation of the Talak and thereafter the present complaint was filed on 02.01.2014. It is further submitted by learned counsel for the petitioner that now the petitioner cannot keep the complainant. Moreover, as per the order passed by learned Principal Judge, Family Court, Aurangabad in Misc. Case No. 04 of 2014 vide order dated 14th of March, 2016 the petitioner has been directed to make payment of Rs.2,500/- per month as interim maintenance to opposite party no. 2 by 10th day of every succeeding month by depositing the same in the bank account of opposite party no. 2 from the date of filing of application of interim maintenance i.e. 08.12.2015 and the petitioner is depositing the said amount in the bank account of opposite party no. 2 regularly. Though, the petitioner challenged the said order dated 14.03.2016 passed in Misc. Case



No. 04 of 2014 vide Cr. Misc. No. 39340 of 2016 before this Court by way of filing quashing application but the said quashing application has been dismissed as withdrawn vide order dated 22.03.2017 passed in Cr. Misc. No.. 39340 of 2016. The certified copy of the same has been produced. Let it be kept on record.

Learned counsel for the complainant submits that the complainant is still ready to resume the conjugal life. However, she is apprehensive about the petitioner deliberately making default in payment of the maintenance amount.

Considering the rival submissions of the parties, since the issue is not likely to be reconciled, at present and in order to save the complainant and minor child from destitution and vagrancy, with a lurking hope that 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 Sub-divisional Judicial Magistrate, Aurangabad in connection with Complaint Case No. 02 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.



The learned court below will be at liberty to cancel the bail bond of the petitioner, if the petitioner defaults for three consecutive occasions in making payment of interim maintenance amount.

The present order, in no way, will preclude the parties to resolve the issue otherwise.

(Dinesh Kumar Singh, J.)

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