

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42450 of 2016

Arising Out of PS.Case No. -613 Year- 2014 Thana -GAYA COMPLAINT CASE District- GAYA

=====

Md. Mokhtar Alam, Son of Late Md. Abdul Gafoor, resident of Village – Seora, P.O. – Phulwaria, P.S. – Dumaria, District – Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. Nargis Khatoon, Resident of Village – Seora, P.O. – Phulwaria, P.S. – Dumaria, District – Gaya, presently residing at her Maika Village – Narayanpur, P.O. – Maigra, P.S. – Dumaria, District – Gaya.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa

For the Opposite Party/s : Mr. Sri Binod Kumar 2

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

05/ 10-03-2017

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

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, 323, 379, 406 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 in 1998 but since there was no issue from the first marriage, hence, the petitioner performed second marriage in 2008 with the consent of the complainant. The accusation made in the complaint itself suggests that the complainant stayed with the petitioner till 2012 i.e. 4 years after the second marriage. The petitioner is still ready to keep the complainant as wife with full dignity and honour. Statement to that effect has been made in paragraph 13 of the petition, which reads as follows:-

“That the petitioner has ever been and is still ready and inclined to keep O.P. No. 2 along with him with full honour, love and affection.”

It is further submitted that similar was the stand of the petitioner before the learned court below but the complainant declined to accept the offer of the petitioner which gets reflected from the last portion of the impugned order which reads as follows:-

“The informant and the petitioner are present in the court. The petitioner is ready to keep her but the informant is not ready to go with him by saying that he used to assault her and also performed second marriage.”

It is submitted by learned counsel for the complainant that the torture was inflicted after petitioner performed second marriage. However, the complainant though,



reluctantly, is ready to accept the offer of the petitioner and ready to resume conjugal life provided the petitioner keeps her with dignity and honour and provides the basic amenities to her regularly and in the circumstances she is not opposing the prayer for anticipatory bail of the petitioner.

Counsel for the petitioner submits that the petitioner is ready to keep the complainant with full dignity and honour and undertakes to provide all basic amenities to her.

Both sides agree to appear before the learned court below on 20th of March, 2017 when the petitioner will take the complainant to keep her as wife with full dignity and honour.

Considering the present stand of the parties, 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, Sherghati in connection with Complaint Case No. 613 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The complainant will be at liberty to file



application for cancellation of bail of the petitioner, if the petitioner substantially violates the undertaking given before this Court.

(Dinesh Kumar Singh, J.)

DKS/

U		T	
---	--	---	--

