

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36530 of 2016

Arising Out of PS.Case No. -9 Year- 2016 Thana -BANDIYA District- AURANGABAD

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Md. Mumtaz Alam @ Md. Mumtaz Son of Md. Naimuddin Resident of
village - Mahri, Police Station Bandeya, District - Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar
2. Nasreen Khatoon Wife of Md. Mumtaz Alam, daughter of Md. Shahyar
@ Gama resident of village - Anti, Police Station Anti, District - Gaya

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Pravesh Nath Tiwari

For the Opposite Party/s : Mr. Sri Atul Chandra

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

ORAL ORDER

06/ 13-02-2017

Heard learned counsels for the petitioner, State

and the informant-opposite party no. 2.

The petitioner being the husband of the informant is apprehending his arrest in a case registered for the offences punishable under Sections 341, 323, 498A, 504, 506/34 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 informant having no issue but claims to have given Talaq to the informant as per Muslim rites, hence, there is no question of



keeping the informant.

On the joint prayer of the parties the matter was referred to the Mediation and Conciliation Centre of the State Legal Services Authority vide order dated 24.08.2016. The report of the Mediator at Flag 'A' dated 30.09.2016 reflects that the issue could not be reconciled since the petitioner is not ready to keep the informant as wife as the petitioner has given Talaq whereas informant insisted for residing with the petitioner and denies the factum of Talaq.

It is submitted by learned counsel for the informant that the informant denies the factum of Talaq and still she is ready to resume the conjugal life. It is further submitted that on the land of the father of the informant the petitioner runs his business. However, counsel for the petitioner denies the contention of the counsel for the informant.

This Court is of the view that the abovementioned dispute cannot be resolved in the present proceeding.

However, on instruction, counsel for the petitioner submits that the petitioner is ready to make payment of Rs.4,000/- per month from March, 2017 to the informant by depositing the same in her account by second week of every



succeeding month.

Counsel for the informant, on instruction, submits that the informant is ready to accept the offer of the petitioner and undertakes to submit the bank account on affidavit before the learned court below within a period of three weeks.

Considering the present stand of the parties and in order to save the informant 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, Daudnagar, Aurangabad in connection with Bandeya P.S. Case No. 09 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The aforementioned payment will be subject to any order passed in matrimonial, maintenance or connected proceedings.

Three consecutive defaults in making payment will give liberty to the informant 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.

It is expected from the learned court below to conclude the trial within a period of nine months.

(Dinesh Kumar Singh, J.)

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