

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38446 of 2017

Arising Out of PS.Case No. -728 Year- 2015 Thana -COMPLAINT CASE District- ARRARIA

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Sanjay Sagar, S/o Ramanand Paswan, Resident of Village- Matiyari, P.S.
Forbesganj, District- Araria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Kanchan Devi, D/o Jalim Paswan, W/o Sanjay Sagar, resident of
Village- Simarbani, P.S.- Bhargama, District- Araria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Naushad Uzzoha

For the Opposite Party/s : Mr. Sri Tapeswar Sharma

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

03/ 31-10-2017

Heard learned counsels for the petitioner,

complainant-opposite party no. 2 and 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 process has been directed to be issued after cognizance
being taken for the offence punishable under Section 498A of the
Indian Penal Code.

The prosecution case got initiated with the filing
of Complaint Case No. 728 of 2015 making accusation that the
complainant's marriage was performed with the petitioner in the
year 2010. On the eve of marriage adequate ornaments were given
to the petitioner by the parents of the complainant. Subsequently,



two daughters were born out of the wedlock but the accused persons including the petitioner inflicted torture on complainant for non-fulfillment of further demand of dowry of Rs.50,000/-. The petitioner performed second marriage with one Baby Devi @ Nanki Devi. It is further alleged that on 14.01.2015, the husband of the complainant poured kerosene oil over her while she was cooking food. The accused persons also made assault to the complainant.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant and birth of two daughters. The petitioner has not performed second marriage. Statement to that effect has been made in paragraph 12 of the petition. Though, statement has been made in paragraph 13 of the petition that the petitioner is ready to settle the dispute, but no specific averment has been made that the petitioner is ready to keep the complainant. However, it is submitted by learned counsel for the petitioner that the petitioner is ready to keep the complainant as wife with full dignity and honour.

Learned counsel for the complainant-opposite party no. 2 submits that in spite of the fact that the complainant has very valid apprehension that the petitioner has performed



second marriage, but since the petitioner is assuring that he has not performed second marriage she is ready to accept the offer and ready to resume the conjugal life. Though, the complainant is apprehensive due to the past conduct of the petitioner. However, considering the stand of the petitioner the complainant is not opposing the prayer for anticipatory bail of the petitioner.

Both sides agree to appear before the learned Court below on 27.11.2017 when the petitioner will take the complainant to keep her as wife with full dignity and honour.

Considering the rival submissions of the parties, keeping in view the stand of the petitioner and the complainant, in order to save the complainant and children from destitution and vagrancy with a lurking hope that the issue may reconcile in future, let the above named petitioner be released on provisional anticipatory bail for six months in the event of his arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-divisional Judicial Magistrate, Araria in connection with Complaint Case No. 728 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The provisional bail of the petitioner will be



confirmed by the learned Court below in three eventualities:- (i) on substantial restoration of the matrimonial harmony or (ii) if the complainant gets reluctant to reconcile the issue or (iii) if the complainant/informant fails to appear before the learned Court below, but the provisional bail of the petitioner will not be confirmed if substantive proof comes that he has performed second marriage.

(Dinesh Kumar Singh, J)

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