

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30166 of 2016

Arising Out of PS.Case No. -18 Year- 2016 Thana -MAHILA PS District- JEHANABAD

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Surendra Kumar @ Surendra Bind, aged about 24 years, S/o- Late Bajrangi Bind, R/v- Kajiyana Dihari, P.O.- Ghana Dihari, P.S.- Paras Bigha, Distt.- Jehanabad.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Advocate
For the State : Mr. Uma Shankar Prasad Singh, APP
For the informant : Mrs. Sandhya Sharma, Advocate
Mr. Awdhesh Kumar Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 07-04-2017 Heard learned counsels for the petitioner, informant and the State.

The petitioner being the husband of the informant is apprehending arrest in a case registered for the offences punishable under Sections 323, 498A, 379, 34 of the Indian Penal Code.

Basic accusation is of torture.

The petitioner and the informant are present before the Court.

It is submitted by learned counsel for the petitioner that at the earlier point of time the informant filed Complaint Case No.878 C/2015 on 13.10.2015, wherein processes have been



directed too be issued after cognizance being taken on 11.04.2016 and on the same day the present First Information Report was registered. Learned counsel for the petitioner further submits that the petitioner admits his marriage with the informant in 2009, but he claims to be minor at that point of time and the marriage never got consummate since the informant has been residing at her parent's house since the date of marriage. In 2013, the petitioner came to know that the informant has a two years old child, hence, the petitioner offered for DNA matching of the child to that of the petitioner and the informant, but since the informant is not ready to accept the offer of DNA matching, hence, at present, the petitioner is not ready to keep the informant.

Learned counsel for the informant submits that the informant was married with the petitioner and the marriage was consummated consequently, a male child was born. The informant is ready to resume the conjugal life and she claims to be residing at present at the native village of the petitioner. Learned counsel for the informant further submits that due to the family prestige and prospective prejudicial effect on the child she is not ready for DNA matching of the child to that of the petitioner. The petitioner had given an undertaking to keep the informant as wife with full dignity and honour before the police when the FIR was registered



in Mahila Police Station, Jehanabad, and at that point of time the petitioner did not take any stand with regard to the child being not born out of the conjugal life of the petitioner and the informant.

Learned counsel for the petitioner further submits that, in alternative, the petitioner is ready to make payment of Rs. 2500/- per month to the informant from May, 2017 by depositing the same in the bank account of the informant by second week of every succeeding month.

The counsel for the informant submits that the informant is ready to accept the offer of the petitioner and undertakes to submit bank account number on affidavit before the learned court below within a period of two weeks. Hence, she is not opposing the prayer for bail of the petitioner.

Considering the present stand of the parties, 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 arrest or surrender before the learned Court below within a period of 12 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 the learned Chief Judicial Magistrate, Jehanabad, in connection with Mahila (Jehanabad) P.S. Case No. 18 of 2016,



subject to the conditions as laid down under Section 438(2)
Cr.P.C.

The aforesaid payment will be subject to any order
being passed in matrimonial or maintenance proceeding.

Three consecutive defaults in making payment by the
petitioner will give liberty to the informant to file an application
for cancellation of bail of the petitioner.

The present order will not preclude the parties to
reconcile the issues otherwise.

(Dinesh Kumar Singh, J)

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