

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54681 of 2017

Arising Out of PS. Case No.-124 Year-2017 Thana- MANIGACHI District- Darbhanga

Md. Arshad @ Arshad Ali S/o Md. Asgar Ali @ Asgar Ali, R/o Village-
Paktol Tole, Dhuria, P.S.- Manigachhi (Bajitpur O.P.), District Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2 Md. Sahud D/o late Md. Jamshed R/o village Paktol Tola (Dhuria) P.O.
Nehra P.S. Manigachi, District Darbhanga.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pravin Kumar Sinha
For the Opposite Party/s : Mr. Ram Naresh Ray

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 01-02-2018 Heard learned counsel for the petitioner and learned APP
for the State.

Petitioner apprehends his arrest in Manigachhi (Bajitpur
O.P.) P. S. case no. 124 of 2017, instituted for the offence under
Section 498 (A) of the Indian Penal Code and $\frac{3}{4}$ of the Dowry
Prohibition Act.

As per allegation in the written report, the petitioner was
having love affairs with the daughter of the informant for last
three years. The petitioner used to visit the informant's house
regularly and, in course of such a visit, both were caught in
compromising position by the villagers. The girl, ultimately,
became pregnant and thereafter '*panchayati*' was held in the
village and in that '*panchayati*' marriage of the daughter of the



informant was performed with this petitioner. The '*Nikahnama*' has been prepared which has been annexed as Annexure A to the counter affidavit filed on behalf of the opposite party no.2. The daughter of the informant gave birth to a male child after 15 days of the '*Nikahnama*' but the petitioner and other accused persons did not bring her back to matrimonial home from her parents' house in spite of several requests and they have made demand of dowry as alleged in the F.I.R..

Main argument made by the learned counsel for the petitioner is that a DNA test of the child was done. The aforesaid paternity report has been enclosed as Annexure-2 to the bail petition which was found to be negative. Learned counsel for the petitioner submits that there was no DNA test done with the consent of the opposite party no.2. The daughter of informant was never told regarding paternity test of the child. He further submitted that the paternity report is of private hospital.

From the allegation in the written report and as also from the '*Nikahnama*' (Annexure-1 to the counter affidavit), it appears that the petitioner was having love affairs with the daughter of the informant and he also used to visit the house of the informant and establish physical relationship with the



daughter of the informant, on account of which, she became pregnant and during '*panchayati*' her marriage was performed with the petitioner. But, the petitioner has refused to keep the daughter of the informant after birth of male child. Therefore, this Court is not inclined to grant anticipatory bail to the petitioner.

Prayer for anticipatory bail is, accordingly, rejected.

Petitioner may surrender before the Court below and seek regular bail which shall be considered and disposed off on its own merit in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

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