

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.70316 of 2018

Arising Out of PS. Case No.-151 Year-2018 Thana- SIMRI District- Buxar

Dr. Abhishek Pandey @ Abhishek Pandey S/o Late Shivnath Pandey, R/o village-Gopiganj, P.S.-Gopiganj, District-Bhadohi, Varanasi (U.P.).

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dr. Soniya Pandey D/o Saryu Dubey, R/o village-Asha Parari, P.S.-Simri, District-Buxar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Digvijay Kumar Ojha, Advocate

For the Opposite Party/s : Mr. Amitesh Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 19-12-2018 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State being assisted by learned counsel for the informant. .

The petitioner seeks pre-arrest bail in connection with Simri P.S. Case No.151 of 2018 registered under Sections 341, 323, 354, 498A, 504 and 506/34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

It is submitted by the learned counsel for the petitioner that the allegations made in the FIR are not true. From perusal of the FIR itself it would transpire that the date of occurrence is 03.07.2017 and 07.08.2017, but neither any information was given to the police nor any complaint was



filed in this regard. The FIR has been instituted on 01.07.2018 without giving any plausible explanation for undue delay caused in institution of the FIR. It is further contended that there is no allegation of demand of dowry or torture against the petitioner rather a common allegation has been made at the bottom of the FIR only to create cause of action within the jurisdiction of Buxar district. As a matter of fact, when the informant left the company of her husband, the petitioner tried to persuade her so that he may live together with the informant. When she filed a criminal case, the petitioner had also filed a divorce case before the learned Principal Judge, Family Court, Buxar on 02.07.2018 in which she had not appeared even after service of notice and paper publication in this regard

Per contra, learned counsel for the State being assisted by the learned counsel for the informant submitted that the informant, who has been ousted from her matrimonial home for non-fulfillment of demand of dowry, wants to live with the petitioner in her matrimonial home. The allegations are quite serious and the petitioner does not deserve to be enlarged on pre-arrest bail.

In reply, learned counsel for the petitioner



submitted that if the informant wants to live together with the petitioner she ought to have filed an application under Section 9 of the Hindu Marriage Act for restitution of conjugal right.

Be that as it may, considering the facts and circumstances of the case, in the event of arrest or surrender before the court below within six weeks from today, the petitioner is directed to be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Buxar in connection with Simri P.S. Case No.151 of 2018 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J)

Md. S/-

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