

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.54138 of 2017**

Arising Out of PS.Case No. -1375 Year- 2017 Thana -PATNA COMPLAINT CASE District-  
PATNA

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1. Mukendra Kumar, son of late Umesh Mahto, R/o Village- Lakhan Chand, P.S.- Mokama, District- Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar  
2. Chanchal Devi, W/o Mukendra Kumar, D/o Sri Ramdas Mahto, R/o Village- Karara, P.S.- Ghoswari, District- Patna, At present Sri Nilam Singh, R/o Mohalla- Khemani Chak, East Laxmi Nagar, P.S.- Ram Krishna Nagar, District- Patna.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Ashok Kumar Kashyap, Advocate

For the Opposite Party/s : Mr. Rajeev Nayan, APP

Mr. Binod Kumar Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**  
**ORAL ORDER**

5/ 12-02-2018

Heard learned counsel for the petitioner and learned

APP for the State as well as counsel for the Opposite Party No.2.

Petitioner apprehends his arrest in **Complaint Case No.1375-C of 2017** instituted for the offence under Section(s) 498-A Indian Penal Code and Section 4 of the Dowry Prohibition Act pending in the Court of the **Sub-Divisional Judicial Magistrate, Patna.**

Both husband and wife are present in Chambers.  
The Complainant-wife has stated that she wants to live with the husband-petitioner.

It is alleged in the Complaint Petition that she was



married with the petitioner on 17.04.2016. She was tortured in her *Sasural* for demand of rupees five lac in dowry. Finally, she was ousted from the matrimonial house.

It has been submitted on behalf of the petitioner in para 6 of the bail petition that the Complainant was suffering from HIV since prior to marriage, but concealing the same marriage of the Complainant was solemnized with the petitioner.

The Supplementary Affidavit has been filed on behalf of the petitioner today, wherein, Blood Report of the Complainant has been annexed as Annexure-2 and 3, which shows that the Complainant is not suffering from HIV, rather, she is suffering from HEPATITIS B VIRAL. It has been mentioned in para 6 of the Supplementary Affidavit that from perusal of Annexure-2 and 3, it may be converted into HIV Positive. It is also stated that HIV Positive is a sexual transmitted disease. Therefore, it is not possible for the petitioner to live with the Complainant.

From the own Supplementary Affidavit filed by the petitioner, it is apparent that the Complainant is not suffering from HIV as alleged in para 6 of the bail petition. From Annexure-2 and 3 of the Supplementary Affidavit, it appears that the Complainant is suffering from HEPATITIS B VIRAL for



which there are necessary treatments. The Annexure-2 & 3 of Supplementary Affidavit do not show that she was suffering from such disease since prior to marriage.

It is the pious duty of the husband after the marriage to look after the wife and take proper medical care of her disease if the same is detected after marriage. The husband-petitioner is totally neglecting the wife and is taking plea that it may be converted into HIV Positive, which is totally hypothetical question. It appears that petitioner does not want to keep the wife and take proper medical care of her.

In such circumstances, this Court does not find it a fit case for grant of anticipatory bail.

Prayer of the petitioner for grant of anticipatory bail is **rejected**.

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

**(Sanjay Priya, J)**

JA/-

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