

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23322 of 2017

Arising Out of PS.Case No. -649 Year- 2006 Thana -JEHANABAD COMPLAINT CASE District-
JEHANABAD

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Sudarshan Sharma @ Pramod Kumar Rakesh, Son of Late Naresh Sharma,
Resident of village - Jalpura, P.S. Arwal, Distt. Arwal.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sabita Devi, Wife of Sri Sudarshan Sharma @ Pramod Kumar Rakesh
R/o Village - Jalpura, P.O. Jalpura, P.S. Arwal, District - Arwal at
present Village - Mahawar, P.S. Daudnagar, Distt. Aurangabad.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

09/ 16-03-2018

Heard learned counsels for the petitioner, the State
and complainant-opposite party no.2.

The petitioner being the husband of the complainant
is apprehending his arrest in a complaint case, wherein processes
have been directed to be issued after cognizance being taken for
the offences punishable under Sections 498A and 323 of the
Indian Penal Code.

The prosecution case as per the complaint petition
filed on 24.11.2006 by Sabita Devi before Chief Judicial
Magistrate, Jehanabad is to the effect that the marriage of the
complainant was performed with the petitioner about eight years



prior to the lodging of the complaint. The complainant is the second wife of the petitioner. The petitioner has three daughters from his first wife. The petitioner performed second marriage with complainant after death of his first wife. It is alleged that after the marriage torture was inflicted and complainant was assaulted. Earlier the complainant submitted a petition before Arwal P.S. alleging torture but the issue was resolved. It is alleged that on 20.11.2016 at 8.00 P.M. while the complainant was cooking, in the meantime, the petitioner and others abused, assaulted the complainant and poured kerosene oil but, somehow, she escaped from the scene, hence they could not set her on fire. Subsequently, the father and brother of the complainant went to in-laws of the complainant and tried to pacify the matter but they declined to keep the complainant and thereafter the complaint was filed.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant but he married the complainant after the death of first wife and subsequently the complainant was blessed with a daughter. Recently the petitioner has performed the marriage of his third daughter from the first wife and hence he is unable to make payment of maintenance amount. However, petitioner is ready to



keep the complainant as wife with full dignity and honour. Statement to that effect has been made in paragraph 14 of the petition which reads as follows:-

“That the petitioner is ready to keep the complainant with due respect as well as with love and affection.”

It is submitted by learned counsel for the complainant that Principal Judge, Family Court, Aurangabad vide order dated 2nd April, 2014 passed in Maintenance Case No. 35 of 2013 directed the petitioner to make payment of Rs.5,000/- per month as maintenance to the complainant and her daughter from the date of filing of application. The copy of the order has been produced but the date of filing of maintenance case is not on record nor it is stipulated in the maintenance order. However, it is submitted that the petitioner has only paid Rs.5,000/- till date in pursuance to the said order. Due to the torturous conduct of the petitioner the complainant is not ready to resume the conjugal life. She only claims maintenance amount as ordered by the learned Principal Judge, Family Court, Aurangabad. It is submitted by learned counsel for the petitioner that the petitioner has challenged the order passed by the learned Principal Judge, Family Court, Aurangabad through miscellaneous application.

Considering the fact that marriage between the



petitioner and the complainant is admitted, in spite of several efforts by this Court, both parties did not agree to resolve the issue, nature of accusation, particularly, the fact that the complaint case was filed in 2006 and the present petition for anticipatory bail was registered on 10.05.2017 after 11 years of the filing of the complaint and the petitioner has admittedly not complied the order of making payment of maintenance amount as directed by the learned Principal Judge, Family Court, Aurangabad, this Court is not inclined to give privilege of anticipatory bail to the petitioner in connection with Complaint Case No. 649 of 2006 pending in the Court of learned Chief Judicial Magistrate, Jehanabad/ACJM IVth, Arwal.

Let the learned Court below consider the prayer for regular bail of the petitioner without being prejudiced by the order of this Court. However, the present order will not preclude the learned Court below to make efforts to reconcile the issue.

Accordingly, this application is disposed of.

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(Dinesh Kumar Singh, J)

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