

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38109 of 2018

Arising Out of PS. Case No.-1180 Year-2014 Thana- VAISALI COMPLAINT CASE District-
Vaishali

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Umashankar Mahto, S/o Hitlal Mahto, Resident of Village- Fanda, P.O.-
Bakhra, P.S.- Paroo, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Rekha Devi, , D/o Sheonath Mahto, W/o Umachankar Mahto, R/o Village-
Fanda P.O.- Bakhra, P.S.- Paroo, District- Muzaffarpur. At present residing at
Village- Bhagwanpur Rath Sadopur, P.O.- Baluka Ram, P.S. and District-
Vaishali.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Sinha
For the Opposite Party/s : Mr. Ram Sevak Choudhary

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 25-09-2018 The order dated 03.07.2018 is modified to the extent

that in 1st line of paragraph 2 of the order the word ‘informant’

be read as ‘complainant’.

Heard learned counsels for the parties.

The petitioner and the complainant/O.P. No. 2 are

present.

The petitioner being the husband of the complainant,

is apprehending arrest in a complaint case, wherein process has

been directed to be issued after cognizance being taken for the

offences punishable under Section 498A of the IPC and Section

4 of the Dowry Prohibition Act.

The prosecution case as per the complaint petition is



that the petitioner inflicted torture upon the complainant due to non-fulfillment of the dowry demand of motorcycle and ultimately the complainant was driven out of the matrimonial house on 15.08.2013.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant and birth of a female child. However, the petitioner is still ready to keep the complainant and her child with dignity and honour. Statement to that effect has been made in paragraph 6 of the petition which reads as follows:-

“That the petitioner is husband of the complainant ready to keep her along with minor child with full dignity and honour.”

It is further submitted that the petitioner made similar offer inviting the complainant to resume the conjugal life but she declined to accept the same. Though the learned Court below has not taken cognizance under Section 494 of the IPC, but the accusation of performing second marriage has not been denied by the petitioner who is present in the Court.

Learned counsel for the complainant submits that the complainant is still ready to resume the conjugal life in spite of the fact that the petitioner has performed second marriage.



Both sides agree to appear before the learned Court below on 4th of October, 2018, when the petitioner will take the complainant and her child to her matrimonial house and keep them with full dignity and honour.

Considering the present stand of the parties, in order to save the complainant and her child from destitution and vagrancy with a lurking hope that the issue may reconcile in future, let the petitioner above named be released on provisional anticipatory bail for four months in the event of arrest or surrender within six weeks on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned SDJM, Vaishali at Hajipur in connection with Complaint Case No. 1180 of 2014 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

The provisional bail of the petitioner will be confirmed by the learned Court below in three eventualities - (i) if the matrimonial harmony is substantially restored, or (ii) if the complainant fails to appear before the learned court below or (iii) if the complainant gets reluctant to reconcile the issue. But the provisional bail of the petitioner will not be confirmed if the complainant brings on record the strict proof with regard to further torture and contrary to the undertaking given by the



petitioner before this Court.

(Dinesh Kumar Singh, J)

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