

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36068 of 2018

Arising Out of PS. Case No.-129 Year-2018 Thana- KATIHAR District- Katihar

Ashutosh Kumar, Son of Nirad Chandra Jha, Resident of Mohalla- Ramnagar,
P.S.- Maranga (K. Hat), District- Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Madhu, D/o Radhe Kant Jha, Resident of Village- Binodpur Rajhata Katihar,
P.S.- Katihar Town, District- Katihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha
For the Opposite Party/s : Mr. Uma Shankar Pd. Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 29-10-2018

Heard learned counsels for the parties.

The petitioner and the informant are present.

The petitioner being the husband of the informant, is apprehending arrest in a case registered for the offences punishable under Sections 498A, 323, 506 and 114/34 of the IPC.

The prosecution case as per the written report of O.P. No. 2, Madhu submitted to SHO, Katihar Town Police Station is to the effect that the marriage of the petitioner with O.P. No. 2 was performed on 25.05.2015. Thereafter, they were blessed with a male child. But, subsequently the torture was inflicted and the petitioner used to assault the informant in an inebriated condition. Thereafter the petitioner prompted the informant to



commit suicide and threatened to kill her. The family of the informant and relatives tried to pacify the issue but there was lull for a temporary period. It is further alleged that on 02.03.2018 the petitioner again assaulted the informant in an inebriated condition and on 03.03.2018 after assaulting the informant and snatching her belongings she was driven out of the matrimonial house.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the informant and birth of a male child. The petitioner is Probationary Officer in S.B.I. whereas the informant is similarly employed in the Gramin Bank. Though earlier the petitioner was ready to keep the informant as wife with full dignity and honour but at present he is not in a condition to keep her. However the prayer is made for further mediation and the petitioner is ready to make payment of monthly amount.

Learned counsel for the informant submits that informant is always ready to resume the conjugal life and the mediation failed due to the latches on the part of the petitioner. The informant is not ready to accept any monthly payment and wants to resolve the issue only in terms of resuming the conjugal life.



Considering the rival submissions made by learned counsels for the parties, it appears that on the joint prayer of the parties the matter was referred to Mediation and Reconciliation Centre of Patna High Court vide order dated 20.7.2018 but the report of the Mediator dated 24.08.2018 at Flag 'A' reflects that despite best sincere efforts, the dispute between the parties could not be resolved.

It appears from the order dated 30.08.2018 that when the matter was placed along with the mediation failure report of the Mediator at Flag 'A', it was submitted by learned counsels for both the sides that issues has been reconciled, hence concession was made by the learned counsel for the informant for grant of provisional bail to the petitioner when the informant became ready to go to matrimonial house on 3rd September, 2018. Accordingly, the matter was adjourned for 29th October, 2018. Today again the petitioner and the informant are present. The stand of the informant is that she is ready to reconcile the issue but the petitioner is not ready for the same at present, which prima facie gives an impression that only a fake undertaking was given before this Court that the petitioner is ready to reconcile the issue.

Be that as it may, keeping in view the ration laid down



in the case of K. Srinivas Rao Vs. D.A. Deepa, reported in (2013) 5 SCC 226 that mediation can be made at any stage of proceeding in a case of 498A IPC, this Court is inclined to grant provisional anticipatory bail to the petitioner.

Accordingly, 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 CJM, Katihar in connection with Katihar P.S. Case No. 129 of 2018 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

Let the learned Court below mediate the issue. The provisional bail of the petitioner will be confirmed by the learned Court below - (i) if the issue is resolved through the process of mediation or (ii) if the informant gets reluctant to reconcile the issue.

(Dinesh Kumar Singh, J)

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