

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2286 of 2019

Arising Out of PS. Case No.-766 Year-2018 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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Bira Yadav @ Kishore Lal Yadav Bhagat @ Kishori Lal Bhagat, son of Raj Kishore Bahgat, Resident of Village - Jitwarpur, P.S.- Govindganj, District - East Champaran, Motihari

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sunita Devi @ Seema Devi. Wife of Bira Yadav @ Kishore Lal Yadav Bhagat @ Kishori Lal Bhagat, Resident of Village- Jitwarpur, P.S.- Govindganj, District -East Champaran, Motihari

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Adv.
For the Opposite Party/s : Mr. Ashok Kumar Singh 1 (App 216)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 05-02-2019 Heard learned counsels for the petitioner and the State.

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 323, 504, 506 and 498A of the Indian Penal Code.

The prosecution case as per the complaint petition filed by Sunita Devi @ Sima Devi, is to the effect that marriage between the complainant and the petitioner, Bira Yadav @ Kishore Lal Yadav Bhagat was performed on 02.07.2005. Subsequently, they were blessed with one son and one daughter.



Thereafter, the petitioner had illicit relationship with another lady. On protest being made by the complainant, the petitioner used to torture the complainant and ultimately on 04.04.2018, the complainant was driven out from her matrimonial house.

Learned counsel for the petitioner submits that the petitioner admits his marriage with the complainant and is ready to keep the complainant as wife with full dignity and honour, statement to that effect has been made in paragraph no. 11 of the petition which reads as follows:-

“11. That this petitioner is husband and his ready to keep her as a wife with due respect but she is not ready to reside with petitioner thus petitioner is deserve for bail.”

It is further submitted that similar was the stand of the petitioner before the learned Court below which gets reflected from the impugned order. Moreover, the petitioner has not performed second marriage, though statement to that effect has not been made in the petition.

Considering that present stand of the petitioner, let the above named petitioner be released on provisional anticipatory bail for six months in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (ten thousand)



with two sureties of the like amount each to the satisfaction of learned **J.M. 1st Class, East Champaran, Motihari** in connection with **Complaint Case No.766 of 2018**, subject to the conditions as laid down under Section 438(2) Cr. P.C.

Let the learned Court below issue notice to the complainant for her appearance. On her appearance, the petitioner will take the complainant to keep her as wife with full dignity and honour.

The provisional bail of the petitioner will be confirmed by 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.

However, the provisional bail will not be confirmed if the complainant produces substantial proof of the second marriage of the petitioner and in that eventuality the petitioner will surrender and pray for regular bail.

(Dinesh Kumar Singh, J)

Deepak/Rahul/-

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