

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3088 of 2019

Arising Out of PS. Case No.-833 Year-2017 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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1. Farman Khan @ Farman Kha, son of Kishori Khan
 2. Kishori Khan @ Khaja Khan, son of Issue Khan
 3. Ajaru Nesha, wife of Kishori Khan @ Khaja Khan
 4. Samsher Khan, son of Kishori Khan @ Khaja Khan
 5. Kalam Khan, son of Kishori Khan @ Khaja Khan
- All are residents of village- Telpur Deoraj, P.S. Lauriya, District West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ashrun Nesha, wife of Farman Khan @ Farman Kha, Resident of village - Telpur, P.S.- Lauriya, District - West Champaran, at present residing at village-Jogiya Deoraj, P.S.- Ramnagar, District-West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Brij Kishor Mishra, Adv.
For the Opposite Party/s : Mr. Raj Kishore Singh, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

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

The petitioners, being the husband, the parents and the brothers of the complainant are apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 323, 498A and 504 of the IPC.

The prosecution case, as per the complaint petition filed by the complainant, Ashrun Nesha is to the effect that the marriage between the complainant and petitioner no.1, Farman Khan was



performed on 16.05.2016 and after 3-4 days of the marriage, petitioner no.1, Farman Khan went missing without saying anything to the complainant. Thereafter, the complainant came to know that Farman Khan, petitioner no.1 has been residing at his residence at Fagwara. When the complainant went to Fagwara at the residence of Farman Khan, petitioner no.1, she found that her husband, Farman Khan, petitioner no.1 was residing with one, Sabina Khatoon. It is further alleged that petitioner no.1 conveyed the complainant that he would keep the complainant as his second wife if the complainant makes payment of further dowry of Rs. 2 lacs.

It is submitted by learned counsel for the petitioners that the petitioner no.1, admits his marriage with the complainant and he is still ready to keep the complainant as his wife with full dignity and honour and he has not performed second marriage, though statement to that effect has not been made in the petition. It is further submitted that the petitioner no.1, Farman Khan filed Matrimonial Case No.29 of 2018, before the Court of the learned Principal Judge, Family Court, West Champaran at Bettiah for restitution of conjugal rights. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.



Considering that present stand of the petitioner no.1, Farman Khan, let the petitioner no.1 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 **Additional Chief Judicial Magistrate-2nd, Bagaha, West Champaran** in connection with **Complaint Case No.833C of 2017**, subject to the conditions as laid down under Section 438(2) Cr. P.C.

So far as petitioner nos. 2 to 5 are concerned, considering the thrust of accusation is against the petitioner no.1, Farman Khan, coupled with the statement made in paragraph no. 3 of the petition that the petitioners are not having any criminal antecedent, let the petitioner nos. 2 to 5 be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned **Additional Chief Judicial Magistrate-2nd, Bagaha, West Champaran** in connection with **Complaint Case No.833C of 2017**, subject to the conditions as laid down under



Section 438(2) of the 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 no.1 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.

(Dinesh Kumar Singh, J)

Deepak/Rahul/-

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