

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2383 of 2019

Arising Out of PS. Case No.-1313 Year-2016 Thana- PATNA COMPLAINT CASE District-
Patna

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Gopal Kumar Sinha, Son of Late Baijnath Prasad Sinha, Resident of Chotki
Delha, Budha Bhagat Lane, Gali No.9, Road No.3 PS Delha Dist.-Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Smt. Nitu Kumari wife of Gopal Kumar Singh D/o Late Anant Kumar Sinha,
Resident of Chotki Delha, Budhlal Bhagat Lane, Gali No.9, Road No.3 P.S.
Delha Dist.-Gaya. At present residing at Mohalla Sheopuri Near Tara
Apartment P.S. Shashtri Nagar, Distt.-Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mithilesh Kumar
For the Opposite Party/s : Mr. Shyameshwar Dayal

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 24-04-2019 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 Sections 498A of the Indian Penal
Code and Section 3/4 of the Dowry Prohibition Act.

The prosecution case, as per the complaint petition, is
to the effect that the complainant was married with the petitioner
on 26.04.2012, but subsequently, further dowry demand of Rs.5
lacs was made and due to non-fulfillment of the same, torture



was inflicted by the petitioner upon the complainant and ultimately, on 04.06.2013, after snatching her all belongings, the complainant was driven out from her matrimonial house. Initially, the complainant made a complaint before the Mahila Help Line on 30.01.2014, but the issue could not be reconciled. In the meantime, the mother of the complainant died on 31.07.2015 and thereafter present complaint was filed.

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, though, statement to that effect has not been made in the petition. It is further submitted that the petitioner has also filed Matrimonial Suit No. 9 of 2014 for restitution of conjugal rights, which is pending before learned Principal Judge Family Court, Gaya. However, learned counsel for the petitioner admits that learned Principal Judge Family Court, Patna vide order dated 04.02.2017 passed in Maintenance Case No.149(M) of 2016 directed the petitioner to pay Rs.3,000/- per month as maintenance amount to the complainant from the date of filing of the application i.e., 23.08.2016. The petitioner was further directed to pay Rs.8,000/- in lumpsum to the complainant towards the litigation cost. However, the said amount has not



been paid, but the petitioner is ready to make payment of the aforesaid amount.

Learned counsel for the complainant submits that in view of the torturous conduct of the petitioner, the complainant is not ready to resume the conjugal right and the petitioner has not paid a single penny towards the maintenance amount as directed by the learned Principal Judge Family Court, Patna. However, the Maintenance Case No. 149(M) of 2016 has been disposed of finally by the learned Principal Judge Family Court, Patna vide order dated 25.01.2019, whereby the petitioner has been directed to make payment of Rs.5,000/- per month towards maintenance from 24.02.2019 and thereafter by 24th day of every succeeding month. The petitioner was further directed to make payment of lumpsum amount of Rs.5,000/- towards litigation cost, but the said amount has also not been paid.

Learned counsel for the petitioner further submits that the petitioner undertakes to make payment of the monthly maintenance amount regularly. The petitioner is also ready to make payment of the entire arrears of the maintenance amount.

It is submitted by learned counsel for the complainant that the complainant will supply her bank account number to the petitioner by filing the same on affidavit before



the learned court below.

Considering the inconsistent stand of the parties, the issue is not likely to reconcile between the parties at present and present stand of the petitioner of making payment of the arrears of the entire maintenance amount for the present at least will save the complainant from destitution and vagrancy with a lurking hope that the issue may reconcile in future, 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 bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned SDJM, Patna in connection with Complaint Case No.1313(C) of 2016, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The provisional anticipatory bail of the petitioner will be confirmed by the learned Court below on showing substantial proof by the petitioner to the effect that he has deposited the entire maintenance amount in the bank account of the complainant.

Three consecutive defaults in making payment by the petitioner will give liberty to the complainant to file an



application for cancellation of bail of the petitioner.

(Dinesh Kumar Singh, J)

Ashwini/Rahul/-

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