

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17222 of 2019

Arising Out of PS. Case No.-814 Year-2017 Thana- COMPLAINT CASE District-
Kishanganj

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MD. ABRUL @ MD. IBRUL aged about 26 years, Male, Son of Janka @
Nawajuddin Resident of Marwatoli, Post- Chakla Ghat, P.S.- Kishanganj,
District- Kishanganj.

... .. Petitioner

Versus

1. The State of Bihar
2. Noor Jahan Khatun aged about 19 years Female, D/o Md. Islam , W/o Md.
Abrul @ Md. Ibrul Resident of Marwatoli, Post- Chakla Ghat, P.S.-
Kishanganj, District- Kishanganj.

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Dilip Kumar Singh

For the Opposite Party/s : Mr.Lakshmi Kant Sharma

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 28-03-2019 Heard learned counsel for the petitioner, learned
counsel representing the complainant and learned Additional
Public Prosecutor for the State.

The petitioner, who is the husband of opposite party
no. 2, is seeking anticipatory bail in connection with Complaint
Case No. C-814 of 2017 registered under Sections 323 and
498A of the Indian Penal Code, pending in the court of learned
S.D.J.M. Kishanganj.

Learned counsel for the petitioner submits that
allegation against petitioner is that after the Nikah was
solemnized by virtue of the decision of the Panchas, the
complainant was taken to her Sasural where she was kept for



two months but there she was being constantly beaten and was being tortured for not bringing any dowry. A demand of dowry for a sum of Rs. 5 Lakhs was being made. She was also being threatened that she would be killed by pouring kerosene oil when it was objected too by her then she was taken to Pucca house by pulling her down. She cried and thereupon she could save her life and came at her parents home.

Learned counsel submits that on perusal of 164 Cr.P.C. statement of the complainant which was recorded in connection with with Kishanganj Mahila P.S. Case No. 13/2017 (Annexure-2) it would appear that she has herself stated about her marriage solemnized with this petitioner by force and if this is the stand of the complainant that her marriage was solemnized by force in accordance with Muslim rights and customs, it cannot be taken as a valid marriage. It is submitted that the claim of the complainant that this petitioner is her husband is not acceptable.

It is further submitted that the complainant is not even knowing the date of Nikahnama as she has disclosed the date of Nikahnama as 28.05.2017 whereas it is dated 10.05.2017.

On the other hand, learned counsel representing the complainant vehemently submits that in order to save himself in



the rape case the petitioner induced the complainant to enter into Nikahnama which she did in presence of the Panchas. A paper was also created on 10.05.2017. Xerox copy thereof has been placed before this court which has not been disputed by learned counsel for the petitioner.

Learned counsel for the complainant submits that on perusal of the paper it would appear that in presence of Panchayat the Nikah had taken place, therefore, at this stage the petitioner is only trying to avoid his responsibility.

Having heard learned counsel for the parties and on perusal of the records in the given facts and circumstances of the case where the complainant has demonstrated before this court that Nikah had taken place in presence of Panchas and copy thereof has been placed before this court, the plea of the petitioner that he has not entered into Nikah with the complainant is not acceptable to this court. This is however only for purpose of refusal of anticipatory bail to the petitioner.

In the given allegations which are serious in nature, this court is not willing to extend the privilege of anticipatory bail of the petitioner.

This application is, thus, dismissed.

In case, the petitioner surrenders and prays for regular



bail in the court below within a period of four weeks from today,
his prayer shall be considered on it's own merit without being
prejudiced by the order of this court.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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