

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19827 of 2019

Arising Out of PS. Case No.-208 Year-2018 Thana- AWTARNAGAR District- Saran

RAJNISH UPADHYAY @ RAJNISH KUMAR UPADHYAY Son of
Baidyanath Upadhyay Resident of Village- Pratap Pur, P.S.- Awtar Nagar,
District- Saran.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Mamta Devi Wife of Rajnish Upadhyay Resident of Village- Pratap Pur,
P.S.- Awtar Nagar, District- Saran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ashhar Mustafa
For the Opposite Party/s	:	Mr.Shailendra Kumar Singh
For O. P. No. 2	:	Mr. Surendra Kishore Thakur

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 29-07-2019 Heard learned Counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises
out of Awtar Nagar Police Station Case No. 208 of 2018,
disclosing offences under Sections 341/342/323/498A/34 of the
Indian Penal Code.

The allegation against the petitioner, on the basis of
the First Information Report, is that the petitioner performed
marriage with Opposite Party No. 2 on 07.07.2007, and out of
their wedlock, one male child was born, who is aged about 10
years. It is alleged that on 05.04.2018, the petitioner entered into
second marriage with one Manisha Kumari and the Opposite



Party No. 2 was being assaulted by the petitioner and her in-laws and they used to torture the Opposite Party No. 2 mentally as well as physically.

Learned Counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He further submits that the allegation against the petitioner is general and omnibus in nature and Opposite Party No. 2 is intemperate in nature and is not adjusting with the petitioner. He further submits that in the mediation process, the petitioner was ready for one time final settlement after paying R. 4,00,000/- in favour of the Opposite Party No. 2, which was agreed upon by the parties, however, on the next date, when the matter was to be settled, the Opposite Party No. 2 retracted from her stand and refused to enter into final settlement.

On the other hand, learned Counsel for the Opposite Party No. 2 submits that the petitioner is in habit of committing such kind of offence inasmuch as earlier also, a complaint was lodged by the Opposite Party No. 2 against the petitioner alleging mental and physical torture, which was subsequently compromised with the promise by the petitioner that he would keep his wife- Opposite Party No. 2 with all respect and dignity and after the compromise was arrived at and all the cases filed



by the petitioner and the Opposite Party No. 2 was withdrawn, the petitioner against started torturing the Opposite Party No. 2 and performed second marriage with another lady.

After having heard learned Counsel for the parties and taking into consideration the fact that successive complaint has been filed against the petitioner and the petitioner has performed second marriage during the subsistence of his first marriage, which, in my opinion, is itself mental torture to the Opposite Party No. 2. Accordingly, I am not inclined to grant the petitioner privilege of anticipatory bail.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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