

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.79233 of 2018

Arising Out of PS. Case No.-22 Year-2018 Thana- MAHILA P.S. District- Siwan

Pradeep Kumar Tiwari Son of Sri Jitendra Kumar Tiwari @ Jitendra Tiwari
Resident of Village - Vinod Khareya, P.S.- Gopalpur, District – Gopalganj. At
present Anushandhan Campus Sampurnanand Sanskrit Vishwa Vidyalaya,
P.S.- Chetganj, Varanasi U.P. Petitioner/s

Versus

The State Of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar Pandey
For the Opposite Party/s : Mr.Sri Bharat Bhushan

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 04-02-2019 Heard both sides.

The petitioner apprehends his arrest in Siwan Mahila
P.S. Case No.22 of 2018 registered under Sections 498A, 376,
511, 313, 504, 506 and 34 of the Indian Penal Code and under
section 3/4 of the Dowry Prohibition Act.

Learned senior counsel for petitioner submits that the
petitioner is husband of the informant and all allegations are
false and concocted. The petitioner filed divorce case on the
ground that the informant has extra marital relation with her
own brother-in-law. It is further submitted that no specific
allegation is made against the petitioner.

On the other hand, learned counsel for the informant
submits that the process under Section 82 of the Cr.P.C. was
issued on 10.12.2018 against the petitioner. The petitioner has
already been declared absconder and order of attachment has
also been effected. In view of law laid down by the Hon'ble



Apex Court in the case of Lavesb Vs. State (NCT of Delhi), (2012) 8 Supreme Court Cases 703 and law laid down in the case of State of M.P. vs. Pradeep Sharma, once the order of proclamation under Section 82 of the Cr.P.C. issued, the anticipatory bail petition is not maintainable and the petitioner does not deserve anticipatory bail.

Having considered the facts that the order of proclamation was issued on 10.12.2018 and order of attachment was also issued declaring the petitioner as absconder and the petitioner did not appear before the Investigating Officer for interrogation, I am not inclined to enlarge the petitioner on anticipatory bail. Accordingly, the same is rejected.

If the petitioner surrenders in the court below and prays for regular bail, the court below shall consider the prayer for his regular bail taking into consideration that all the accused persons have been granted anticipatory bail and the petitioner has not been granted anticipatory bail only because the order of attachment has already been issued and dispose of regular bail petition of the petitioner preferably on the same day.

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(Prabhat Kumar Jha, J)

