

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25125 of 2019

Arising Out of PS. Case No.-1034 Year-2018 Thana- KATIHAR District- Katihar

MD. NASIRUDDIN @ CHAND, aged about 32 years, Male, Son of Abdul Jalil Resident of Mohalla- Driver Tola, P.S.- Nagar, District- Katihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Saba Praveen aged about 21 years, Female, Wife of Md. Nasiruddin @ Chand, D/o Gulam Sarwar Resident of Driver Tola, P.S.- Nagar, District- Katihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md. Musowir
For the Opposite Party/s : Mr.Ram Sumiran Rai

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 29-07-2019 Heard learned counsel for the petitioner, learned counsel for the State and learned counsel representing the opposite party no. 2.

The petitioner is seeking anticipatory bail in connection with Nagar P.S. Case No. 1034/2018 registered under Sections 323/494(A)/509 of the Indian Penal Code and ³/₄ of the Dowry Prohibition Act, pending in the court of learned S.D.J.M., Katihar.

According to the written complaint giving rise to the present police case, the petitioner was married to opposite party no. 2 on 10.12.2016 according to Muslim rites and customs. It is alleged that the opposite party no. 2 stayed in her *Sasural* for



about a month where she found that the mother-in-law and other relatives of the husband including the husband were all the time asking the opposite party no. 2 to bring a dowry of Rs. 1,10,000/- otherwise she would not be allowed to live in her *Sasural*. The opposite party no. 2 alleged that on 10.01.2017 all the accused persons ousted the opposite party no. 2 from the matrimonial home. Her ornaments, cloths and other belongings were not returned to her and she was tortured and taken to her *Maik*e in pregnant condition.

Learned counsel for the opposite party no. 2 submits that out of the wedlock one child has also born but the petitioner has after committing cruelty left the opposite party no. 2 and is not taking care of her and her child. It appears from the plea taken by the petitioner in the application that he had filed a matrimonial case for restitution of conjugal rights but that was withdrawn on 30.07.2018. Now the stand of learned counsel for the petitioner is that the petitioner has given triple '*Talak*' to opposite party no. 2 by sending a written communication to opposite party no. 2 by registered post.

It appears that earlier while issuing notice to opposite party no. 2 this court had granted interim protection to the petitioner, however, today when learned counsel for the opposite



party no. 2 submits that the opposite party no. 2 wants to live with the petitioner as his wife with full dignity and care, learned counsel for the petitioner submits that the petitioner having given divorce to opposite party no. 2 would not keep her in matrimonial home.

In the facts and circumstances of the case where there are allegations of demand of dowry and torture and the opposite party no. 2 was ousted from her matrimonial home when she was pregnant, on the face of the allegations, this court is not inclined to grant anticipatory bail to the petitioner.

Prayer for anticipatory bail of the petitioner is refused and this application is dismissed.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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