

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42065 of 2019

Arising Out of PS. Case No.-971 Year-2017 Thana- VAISALI COMPLAINT CASE District-
Vaishali

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SHASHI KANT MAHTO S/o Late Ramjas Mahto R/o village and P.O.-
Pachlakhi, P.S.- Nautan, District- Siwan, at present Address Director,
Directorate Information and Boradcasting, Chandigarh and Hisar, Hariyana

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Punam Kumari Prasad D/o Amarnath Prasad R/o village- Bishnupur Ijra,
P.S.- Desari, District- Vaishali

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Santosh Kumar
For the Opposite Party/s : Mr.Manoj Kumar

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

4 04-12-2019 Heard learned counsel for the petitioner and learned
counsel for the Opposite Party No. 2.

The petitioner is apprehending his arrest in connection
with Complaint Case No. 971 of 2017, Tr. No. 2210 of 2019 for
the offence registered under Section 498(A) of the Indian Penal
Code.

The petitioner as well as the opposite party no. 2
along with the children are present in Court.

I interacted extensively with the parties and find that
the order of divorce is very much on record but is silent on the
issue of custody of children. At present, the children are in the
custody of father but the mother being the natural guardian is



entitled to be considered for grant of custody. If any such application is filed, it shall be open to the concerned Family Court to determine the issue in accordance with law.

It appears that at present the children are being taken care of by the father and they are receiving their education and he is attending to their daily needs. So far as the wife of the petitioner is concerned, she is willing and ready to go with her husband but the petitioner (husband) is adamant that since she had deserted him and the children. He is no longer and ready willing to stay with her and the order of divorce not being challenged till date, there is no question of restoration of normal family life.

Learned counsel for the petitioner further submits that in the present scenario since the father is taking care of the children and he is also a Government Servant and is posted at Vaishali whereas the family court is in seisin of the matter, the petitioner may be extended the privilege of pre-arrest bail so that he may also take care of the children and attend court. He further undertakes to appear in the Court as and when required.

Considering the aforesaid facts and circumstances of the case, let the petitioner, above named, in the event of his arrest/surrender before the learned court below within a period



of four weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of S.D.J.M., Vaishali at Hajipur in connection with Complaint Case No. 971 of 2017, Tr. No. 2210 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Anjana Mishra, J)

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