

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36762 of 2018

Arising Out of PS. Case No.-173 Year-2015 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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Md. Arshad, son of Rahimullah, resident of village - Balua, P.O. Balua Tola,
P.S. Kundwa, Chainpur, District - East Champaran.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Hasina Khatoon wife of Md. Arshad, resident of Village - Balua Guabari,
P.O. P.S. - Kundwa Chainpur, District - East Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Pravin Kumar

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 24-04-2019 Heard learned counsels for the petitioner and the

State.

The petitioner being the husband of the complainant is apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 498A, 323 and 406/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

The prosecution case, as per the complaint petition, is to the effect that the complainant was married with the petitioner on 19.06.2005, but subsequently, further dowry demand of Rs.1 lacs was made and due to non-fulfillment of the



same, torture was inflicted upon the complainant. However, the married couple were blessed with a male child. It is further alleged that on 14.03.2015, the accused persons also made attempt on the life of the complainant by causing her burn injuries and ultimately the complainant was driven out from the matrimonial house after snatching all her belongings.

Learned counsel for the petitioner submits that the petitioner admits his marriage with the complainant and birth of a male child, but due to the torturous attitude of the complainant, the petitioner is not ready to keep her. However, the petitioner is making payment of the maintenance amount of Rs.4,000/- per month to the complainant, as per the direction of learned Principal Judge, Family Court, East Champaran, Motihari passed in Maintenance Case No.107 of 2015, though in installments.

This Court is really dismayed to find that neither the counsel for the petitioner nor the counsel for the complainant has the copy of the order passed in the maintenance proceeding.

Learned counsel for the complainant submits that the complainant is ready to resume the conjugal right. However, the maintenance amount is not being paid regularly.

It appears that this Court vide order dated 06.3.2019,



on joint prayer of the parties, referred the matter to the Mediation and Reconciliation Centre of Patna High Court. The report of the Mediator dated 18.04.2019, kept at Flag 'M' reflects that despite the best efforts, the issue could not be resolved between the parties through the process of mediation.

It is submitted by learned counsel for the complainant that the complainant will supply her bank account number to the petitioner by filing the same on affidavit before the learned court below.

However, keeping in view the present stand of the petitioner that he is ready to make payment of maintenance amount regularly including the arrears which will at least save the complainant and her minor child from destitution and vagrancy with a lurking hope that the issue may reconcile in future, let the above named petitioner be released on provisional anticipatory bail for six months in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned SDJM, Sikrahna at Dhaka, Motihari, East Champaran in connection with Complaint Case No.173 of 2015, subject to the conditions as laid down under Section 438(2)



Cr.P.C.

The provisional anticipatory bail of the petitioner will be accepted by the learned Court below on showing substantial proof by the petitioner to the effect that he has deposited the entire amount of the maintenance amount in the bank account of the complainant.

Three consecutive defaults in making payment by the petitioner will give liberty to the complainant to file an application for cancellation of bail of the petitioner.

In the circumstances discussed above, the learned Court below is expected to examine the purport of the order passed in maintenance case before releasing the petitioner on provisional anticipatory bail.

(Dinesh Kumar Singh, J)

Ashwini/Rahul/-

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