

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56708 of 2018

Arising Out of PS. Case No.-1943 Year-2016 Thana- COMPLAINT CASE District- Araria

Md. Sarfraj Alam @ Md. Sarfraj @ Sarfraj S/o Harun, R/o Vill.- Bajaddi,
P.S.- Amour, District- Purnea.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Bibi Rihana Khatoon W/o Sarfaraj Alam, D/o Bahruddin, R/o Vill.-
Kurasali, P.S.- Mahalgaon, District- Araria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Gopal Kumar Jha
For the Opposite Party/s : Mr.Sri Ajit Kumar

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 11-03-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is apprehending his arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offence punishable under Section 498A of the Indian Penal Code.

The prosecution case that the complainant Bibi Rihana Khatoon was married with the petitioner on 07.01.2015 but subsequent to the marriage, there was a further demand of Rs.50,000/- and milchy buffalo and on non-fulfillment of the same, torture was inflicted upon the complainant and ultimately, she was driven out from the matrimonial house by the petitioner and other in-law family members.

It is submitted by learned counsel for the petitioner



that the petitioner admits his marriage with the complainant but subsequently the complainant filed a compromise petition before the learned Court below to the effect that the complainant has already divorced the petitioner which has been brought on record, as contained in as Annexure-2 and the complainant is not appearing in spite of receiving the notice. It is further submitted that there is no specific proof of torture.

Learned APP submits that the thrust of accusation is against the petitioner.

It appears that initially a Bench of this Court vide order dated 26.10.2018 directed for issuance of notice to the opposite party no.2, the complainant and again similar direction was issued second time vide order dated 02.01.2019. It appears from the office note dated 05.03.2019 that opposite party no. 2 received the notice personally but none is appearing on behalf of opposite party no. 2.

In the circumstances, this Court has no option except to dispose of the bail application.

Considering the nature of accusation and the fact that the complainant has filed petition before the learned Court below to the effect that she has already divorced the petitioner but she chose not to controvert the same, as contained in



Annexure-2, let the above named petitioner be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-divisional Judicial Magistrate, Araria in connection with Complaint Case No. 1943C of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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