

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56758 of 2019

Arising Out of PS. Case No.-1554 Year-2014 Thana- PATNA COMPLAINT CASE District-
Patna

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VIVEK GUPTA Son of Shri Jay Prakash Gupta Resident of Mohalla -
Sahebganj (Sonarpatti), P.S.- Chapra Town, District - Saran at Chapra
... .. Petitioner

Versus

1. THE STATE OF BIHAR
2. Smt. Chanda Gupta D/O - Sri Arvind Kumar Resident of Mohalla - Sabzi
Bazar, Khusrupur, P.S.- Khusrupur, District- Patna
... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr.Shashi Shekhar Kumar Prasad, Advocate
For the Opposite Party/s : Mr.Arun Kumar Pandey,APP
For the O. P. No. 2 : Mr. Vikramaditya Gupta, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 20-11-2019 Heard learned counsel for the petitioner and learned
counsel representing O. P. No. 2 as also learned counsel for the
State.

The petitioner in the present case is seeking
anticipatory bail in Complaint Case No. 1554 of 2014 pending
in the court of learned Additional Chief Judicial Magistrate,
Patna City in which cognizance of the offence under Section
498A of the Indian Penal Code has been taken and the petitioner
has been summoned.

Learned counsel for the petitioner submits that the
marriage between the petitioner and O. P. No. 2 was solemnized
on 26.02.2011, they have been blessed with a male child but
immediately after the marriage when it was found that the



complainant is suffering from mental disorder which was concealed from the petitioner, the petitioner took opposite party no. 2 for medical help in the premier hospitals. He took O. P. No. 2 to All India Institute of Medical Sciences, New Delhi (in short 'AIIMS') and then Medanta Hospital as well. Some medical papers as contained in Annexure '2' series have been brought on record to demonstrate that immediately after the marriage the O. P. No. 2 had been brought to 'AIIMS' and she was in regular treatment there.

Learned counsel submits that the allegations in the complaint petition filed in the year 2014 are palpably false, concocted and baseless as it would appear that the complaint petition has been filed immediately after the petitioner filed a divorce case giving rise to Divorce (Matrimonial) Suit No. 426 of 2014. Copy of which has been brought on record as Annexure '3' to the present application.

Learned counsel submits that the petitioner had earlier filed an application under Section 482 Cr.P.C. for quashing of the order taking cognizance and issuance of summons, the said Cr. Misc. No. 17273 of 2015 was entertained, an interim stay was granted but ultimately on 05.04.2019, the said application has been dismissed. It is under these circumstances that the



petitioner has moved for grant of anticipatory bail.

In course of hearing learned counsel has also informed this Court that pursuant to an order passed under the Domestic Violence Act, the petitioner has paid maintenance at the rate of Rs. 25,000/- per month and statement to that effect has been made in paragraph '12' of the application. The petitioner has presently filed an application for modification of the order of the maintenance which is still pending consideration.

Learned counsel has further placed before this Court a copy of order dated 06.09.2019 passed by learned Principal Judge, Family Court, Patna in Maintenance Case No. 276 of 2017 to submit that the learned Principal Judge has given the custody of the minor son to this petitioner after considering the facts and circumstances of the case particularly that the minor son was living with the petitioner right from the beginning.

Learned counsel for O. P. No. 2 has opposed the prayer for anticipatory bail of the petitioner. It is submitted that the submission of the petitioner that the complainant is suffering from mental illness is a false allegation against the complainant and this Court may take note of the fact that the complainant had herself appeared in the court below and deposed but at that



time the Court did not notice any mental illness.

Learned counsel has also submitted that the petitioner has paid maintenance for three months but thereafter he is not paying the full amount of Rs. 25,000/- to the complainant. Learned counsel for the O. P. No. 2 further submits that the petitioner's appeal filed against the order passed in Domestic violence case has also been dismissed.

Learned counsel for the petitioner, however, submits that the appeal order is under challenge in a revision application before this Court.

Having heard learned counsel for the parties and on a careful perusal of the records, this Court finds that the present complaint case arises out of a matrimonial dispute between the parties. Submission of the petitioner that the complainant was under treatment with 'AIIMS' and other hospitals are supported by the documents which are available on the record as Annexure '2' to the present application.

The marriage is of the year 2011, the petitioner filed divorce case in November, 2014 and thereafter towards the end of December, 2014 the present complaint case was filed.

Various other aspects of the matter such as maintenance and custody of children have been taken note by



this Court for purpose of taking an over all view of the matter.
This Court is of the opinion that in the above circumstances, in the event of arrest or surrender of the petitioner above named within a period of four weeks from today in connection with Complaint Case No. 1554 of 2014 he shall be released on bail on furnishing of bail bond of Rs. 15,000/- (fifteen thousand) with two sureties of the like amount each to the satisfaction of Smt. Ritu Kumari, A.C.J.M., Patna City, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

(Rajeev Ranjan Prasad, J)

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