

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70830 of 2019**

Arising out of PS. Case No.-87 Year-2019 Thana- SHAMBHUGANJ District- Banka

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DILEEP KUMAR @ DILIP KUMAR Son of Ramdeo Mandal Resident of
Village-Pareriya, Police Station-Shambhuganj, District-Banka.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Balram Kapri, Advocate

For the Opposite Party/s : Mr. S.D. Yadav, APP

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL ORDER

3 18-12-2019 Instant petition under Sections 439 and 440 of Criminal Procedure Code has been moved for grant of bail in F.I.R. No. 87 of 2019, dated 09.05.2019, registered at Police Station Shambhuganj under Sections 341, 323, 379, 452, 494, 498(A), 504 and 506/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

I have heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State. I have also perused the relevant record of the case, necessary for adjudication of this petition.

It is the case of the informant that the petitioner husband has been torturing her since the inception of the marriage which took place in the year 2004. Also, the petitioner has solemnized second marriage, abandoning both the children.



It is seen that the marriage took place in the year 2004 and the allegation of assault took place in December, 2018. Petitioner is behind bars since 30.07.2019. Investigation is complete and challan stands presented.

The allegations have been seriously disputed by the petitioner. Prima facie also, it appears that thus far no case against the petitioner is made out indicating his complicity in the alleged crime.

It is submitted by learned counsel for the petitioner that the petitioner has roots in the society; is not likely to interfere in the investigation or influence or intimidate any of the witnesses or destroy the evidence; is behind bars since 30.07.2019; no custodial interrogation is required and the petitioner has fully cooperated in the investigation.

Learned Additional Public Prosecutor does not seriously oppose the application.

Prima facie, nothing is produced to highlight petitioner's direct involvement in the crime.

Thus, this Court is of the considered view that petitioner has made out a case for grant of bail. Possibility of false implication, as is so alleged by the petitioner, cannot be ruled out. Also, thus far save and except for naming the



petitioner in the F.I.R., no evidence corroborative in nature stands recorded by the police. Also, none has come forward to highlight the possible involvement of the petitioner in the crime. On what basis the Investigating Officer could link the accused to the crime is also not emanating from the record.

Be that as it may, considering the entire attending facts and circumstances of the case, let the petitioner, named above, be released on bail on furnishing bail bond of Rs. 25,000/-(Twenty five thousand) with two sureties of like amount each to the satisfaction of learned C.J.M., Banka in connection with Shambhuganj P.S. Case No. 87 of 2019, on the following conditions:-

(i) That one of the bailors of the petitioner shall be his close relative.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bonds shall be liable to be cancelled by the learned court concerned.

(iv) The petitioner shall cooperate with the



investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

Any observation made herein shall not be construed to be an expression on the merits of the matter.

Petition stands disposed of in the above terms.

(Sanjay Karol, CJ)

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