

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15510 of 2020

Arising Out of PS. Case No.-198 Year-2019 Thana- MAHILA P.S. District- Nalanda

MOHAMMAD MASROOR ALAM Son of Late Mohammad Haroon Rashid
@ Md. Haroon Master Resident of Mohalla- 314, Shaikhana Khurd, P.S.-
Biharsharif, District- Nalanda (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kumar Binode Bariar

For the Opposite Party/s : Mr.Zainul Abedin

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 06-07-2020 Due to COVID-19 Pandemic, the matter is being
taken up by way of virtual Court proceeding.

The matter has been listed under the heading “For Orders”
under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the petitioner and learned APP
for the State.

The petitioner is apprehending his arrest in a case
registered under Sections 376, 498A, 341, 323, 504, & 506 /34
of the Indian Penal Code and ³/₄ of Dowry Prohibition Act.

Allegation against the petitioner is of committing rape
upon the victim on the pretext of marriage. It is also alleged that
the petitioner committed torture upon the victim due to non-
fulfillment of demand of dowry.



It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner is the husband of the victim. The offence under Section 376 of the Indian Penal Code relates to the incident occurred four years back. It is alleged that physical relationship was established between the petitioner and the victim on the pretext of marriage. Subsequently, the petitioner is said to have performed marriage with the victim. It has further been submitted that on the pretext of marriage, consensual physical relationship was established between the petitioner and the victim. Hence, for the said reason, no offence under Section 376 of the IPC is made out. The petitioner has further relied upon the case of the Hon'ble Supreme Court since reported in 2019 SCC Online SC-3100(Dr. Dhruvaram Murlidhar Sorav-Versus-The State of Maharastra and Ors). So far offence under Section 498A is concerned, the same is triable by Magistrate.

On behalf of the State, it is submitted that the petitioner is named in the Complaint Case/F.I.R.

Considering the aforesaid facts and circumstances of the case and also the lockdown, the petitioner, above named, in the event of arrest or surrender before the learned court below



within a period of six weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned Sub Divisional Judicial Magistrate, Bihar Sharif, Nalanda in connection with Mahila P.S. Case No. 198 of 2019 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of seven weeks to the satisfaction of the court concerned in connection with the aforesaid case.

If so advised, either of the parties will be at liberty to make an application before the Court below for referring the matter to the District Mediation Centre for the purpose of reconciliation or one time settlement.

(Sudhir Singh, J)

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