

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20673 of 2020

Arising Out of PS. Case No.-4059 Year-2018 Thana- SARAN COMPLAINT CASE District-
Saran

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Md. Shahabuddin Son of Allauddin Shah Resident of Village - Sisai, P.S.-
Sahajeetpur, District - Saran at Chapra

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rashida Khatoon Wife of Md. Shahabuddin D/o Anwar Ali, Resident of
Village - Hanshabir, P.S.- Mashrak, District - Saran at Chapra

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Pramod Ban Bihari Singh

For the Opposite Party/s : Mr.Md. Anbzarul Haque Sahara

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 21-07-2020 The Court proceeding has been conducted

through virtual mode.

Since the physical court proceeding is non-

functional due to the present pandemic COVID-19, the

matter is listed with defects.

Learned counsel for the petitioner undertakes

to remove the defects within three weeks of the

resumption of the physical Court proceedings.

In case of non-removal of the defects within

the undertaken period, the office shall place the matter



before the bench.

Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner, being husband of the complainant 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, 1860.

The prosecution case as per the complaint petition filed by Rashida Khatoon is to the effect that the complainant was married with the petitioner on 13.05.2018 but subsequent to the marriage, there was further dowry demand of rupees two lakhs and for non-fulfillment of the same, torture was inflicted upon the complainant, leading to filing of the present complaint petition.

It is submitted by learned counsel for the petitioner that petitioner admits his marriage with the complainant and is ready to keep her with full dignity



and honour but it is submitted that complainant is a transgender, hence the issue could not be resolved.

Considering the present stand of the petitioner, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of six weeks, be released on provisional anticipatory bail for a period of six months on furnishing one surety to the satisfaction of learned A.C.J.M.-VI, Saran at Chapra in connection with Complaint Case No. 4059 of 2018, subject to the conditions as laid down under Section 438(2) Cr.P.C.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the



petitioner will be confirmed by the learned Court below within six months on furnishing bail bond of Rs. 10,000/-(ten thousands) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-VI, Saran at Chapra in connection with Complaint Case No. 4059 of 2018 including one surety given at the time of provisional bail.

The learned Court below will be at liberty to further extend the period of provisional bail if the Court proceeding in physical mode will not resume in next six months.

Let learned Court below issue notice to the complainant and get the issue mediated and if need be, with the consent of the parties, medical examination may be conducted to find out the exact gender of the complainant. On medical examination, if the allegation of the petitioner is not found true, in that circumstance, the petitioner will surrender and pray for regular bail but if the medical opinion is otherwise, then the



provisional bail of the petitioner will be confirmed.

Accordingly, the application stands disposed of.

(Dinesh Kumar Singh, J)

Shageer/DKS

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