

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40544 of 2019

Arising Out of PS. Case No.-114 Year-2019 Thana- SHAHKUND District- Bhagalpur

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DINESH CHOUDHARY @ DINESH PRASAD DIWAKAR Son of Late
Uday Narayan Choudhary Resident of Muhalla - Kaswa Kherhi, P.S.-
Shahkund, Distt – Bhagalpur. Petitioner

Versus

THE STATE OF BIHAR Opposite Party

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Appearance :

For the Petitioner/s : Mr.Diwakar Upadhyaya
For the Opposite Party/s : Mr.Sharda Kumari

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

6 04-03-2020 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

The instant application for anticipatory bail has been
filed by the petitioner apprehending his arrest in connection
with Shahkund P.S. Case No. 114 of 2019, registered for the
offence punishable under section 498A of the Indian Penal Code
and section 37(c) of the Bihar Prohibition and Excise Act, 2016.

As per the allegation in the FIR, it is stated that the
husband of the informant, who is the petitioner herein, always
threatened, tortured and beat up the informant under the
influence of liquor. It is stated that on 01.05.2019, once again
the petitioner came home under the influence of the liquor and
misbehaved with her, abusing her and beating her up with fists
and slaps.

It is submitted by learned counsel for the petitioner



that the allegations as levelled in the FIR are false and concocted. It is further submitted that he never takes any alcohol or wine. The marriage had taken place about 25 years ago. It is further submitted that during pendency of this application, pursuant to an order under section 125 Cr.P.C., the petitioner has paid the amount of arrears of the monthly maintenance fixed upto January, 2020. He further submits that the petitioner shall continue to pay the monthly maintenance fixed, unless and until the same is suitably modified.

It is submitted by learned counsel for the informant that there is serious and direct allegation of assault and torture under influence of liquor against the petitioner. It is further submitted that the submissions with respect to regular payment of monthly maintenance is being made on behalf of the petitioner only for the reason of getting bail in the instant application. Once the instant application is disposed of, the petitioner may not abide by the terms of the order passed in the maintenance case.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, this Court is inclined to enlarge the petitioner on bail. The provisional bail granted to the petitioner vide order dated



12.09.2019 passed in the instant case is hereby confirmed.

However, in view of the submissions made on behalf of the parties, it is further directed that the petitioner shall pay the maintenance fixed by the learned Court below under section 125 Cr.P.C. regularly in future and in case of non-payment of the same or in case of violation of any of the conditions provided under section 438(2) Cr.P.C., the informant shall be at liberty to proceed in accordance with the procedure prescribed in law.

(Partha Sarthy, J)

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