

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58004 of 2019

Arising Out of PS. Case No.-137 Year-2019 Thana- KATIHAR MUFFASIL District- Katihar

Subhash Kumar Son of Ramesh Jha Resident of Village-Satgarha, Police Station-Jokihat, District-Araria, at present address C/o UCO Bank at village-Geharwin, P.O.-Geharwin, District-Bilashpur (Himachal Pradesh).

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Shweta Jha Wife of Subhash Kumar and Daughter of Upendra Mohan Jha Resident of Village-Satgarha, Police Station-Jokihat, District-Araria, at present residing at village Rampur, P.O.-Dalan, Police Station-Katihar (Muffasil), District-Katihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Dr Amrendra Kumar, Advocate Mr.Mukesh Kumar Rana, Advocate
For the Informant	:	Mr. Binay Kumar Singh, Advocate
For the Opposite Party/s	:	Mr.Narsingh Tanti, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

6 28-02-2020 Heard learned counsel for the petitioner, learned counsel for the opposite party no. 2 and learned APP for the State.

The petitioner has filed the instant application for anticipatory bail apprehending his arrest in connection with Mufassil P.S Case no. 137 of 2019 registered for the offence under sections 323, 506, 313 and 498A of the Indian Penal Code and sections 3 and 4 of the Dowry Prohibition Act.

As per the allegation in the FIR, the opposite party no. 2 was married to the petitioner on 8.6.2014 and in the



marriage a sum of Rs. 14 lacs was given by way of dowry. It is stated that the petitioner was already in a relationship with one Renu Kumari Nagarwal and he started to treat the opposite party no. 2 as a minting machine to fetch money. The opposite party no. 2 got a scent that the petitioner was not loyal to her. She was asked by her husband's sister to provide money by way of dowry and on refusal to give the same, she was beaten up by the petitioner and inflicted cruelties. The demand of dowry was for purchasing a flat. It is stated that the petitioner filed a matrimonial suit for dissolution of marriage which also amounted cruelty.

It was submitted by learned counsel for the petitioner that the allegations levelled by the informant were false and concocted. The petitioner was posted as a Senior Manager in the UCO Bank at Shimla in Himachal Pradesh and was humiliated by the informant. It was further submitted that he filed a Matrimonial Suit on 19.1.2019 in the Court of the Principal Judge, Family Court, Katihar which was registered as Matrimonial Case no. 40 of 2019 praying therein for a decree of divorce under section 13 of the Hindu Marriage Act by dissolution of marriage. It is submitted that much after filing of the said divorce suit on 19.1.2019, the opposite party no. 2 filed



the complaint on 25.4.2019 which was registered as Complaint Case no. 509 of 2019 and ultimately an FIR was registered being Mufassil P.S. Case no. 137 of 2019 (District Katihar).

A counter affidavit has been filed on behalf of the opposite party no. 2. It has been submitted on behalf of the opposite party no. 2 that the opposite party no. 2 was a brilliant student and a gold medalist and it was as a result of torture meted out to her that she left work and now she is unemployed. With respect to statement of the petitioner that no dowry was taken in any form nor was the opposite party no. 2 tortured, it is submitted, referring to the Bank statement of one Gaurav Gunjan Jha, brother of the opposite party no. 2 that various amounts to the tune of Rs. 4 lacs on one occasion Rs. 18,000/- and Rs. 5 lacs etc were transferred into the account of the father of the petitioner.

Further, with respect to the allegation under section 313 of the Indian Penal Code it was submitted that when in the night of 23.12.2016, the opposite party no. 2 developed excruciating pain, the petitioner took her to Kamla Nehru State Hospital, Shimla on 24.12.2016 and under the guidance of Dr. Kushala Pathania, the attending doctor, ultrasound was performed on the same date. She further states that during the



night of 24th December , there was miscarriage but the petitioner still did not show any kind of concern and lastly dropped her at her father's place at Dibrugarh, Assam.

Having heard learned counsel for the parties and having gone through the records, it transpires from the complaint that at the time of marriage both the complainant as well as the petitioner were working. While the complainant was a Deputy Manager in a private company at Bangalore, the petitioner was a Senior Manager in UCO Bank at Shimla. Though there are allegations made against this petitioner, however, the opposite party no. 2 categorically states in paragraph no. 16 of the counter affidavit that on developing pain in the night of 23.12.2016 it was the petitioner who took her to the hospital where she underwent ultrasound. However, unfortunately there was miscarriage. It was much thereafter on 19.1.2019 that the suit was filed by the petitioner in the Court of the Principal Judge, Family Court, Katihar alleging cruelty against the opposite party no. 2 and which is described in detail in the divorce petition brought on record as Annexure 2 to the application. As admitted in paragraph 11 of the complaint, she received notice in connection with the said matrimonial case and it was only thereafter that the complaint was filed on



25.4.2019 and thereafter on petition referred to the police station, the FIR was registered. Further the petitioner has no criminal antecedent.

The application for bail has been opposed by learned APP for the State.

Having heard learned counsel for the parties and taking into consideration the above stated facts and circumstances, the Court is inclined to enlarge the petitioner on bail. The petitioner, above named, in the event of his arrest or surrender in the Court below within a period of six weeks from today in connection with Mufassil P.S Case no. 137 of 2019 is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Sub-Divisional Judge Magistrate, Katihar subject to the conditions as laid down in section 438(2) of Criminal Procedure Code.

(Partha Sarthy, J)

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