

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71547 of 2019

Arising Out of PS. Case No.-112 Year-2018 Thana- MAHILA P.S District- Supaul

ABDUL WASE Son of Abdul Rasid Resident of Village-Shankarpur, ward no.12, P.S-Birpur, District-Supaul.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Majara Khatoon D/o Md. Mohshin Wife of Abdul Wase Resident of Shanakrpur, ward no.12, P.S-Birpur, District-Supaul.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kumar Goutam

For the Opposite Party/s : Mr.Jai Narain Thakur

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

- 3 06-03-2020 Heard Mr. D.K.Sinha, learned senior counsel for the petitioner, learned A.P.P. as well as Mr. Arun, learned counsel for the informant.

The petitioner seeks bail in Supaul Mahila P.S. Case No.112 of 2018 registered under Sections 376, 493, 498A, 323, 504, 506 and 34 of the Indian Penal Code.

The informant alleged that petitioner firstly committed rape with her without her consent and later on, the marriage was solemnized with the intervention of the villagers but the petitioner again subjected the informant to all sorts of torture and drove her out from the house.

The learned counsel for the petitioner submits that petitioner earlier moved this Court in Cr. Misc. No.6278 of 2019 for grant of pre-arrest bail and the same was disposed of on 01.04.2019 granting provisional bail to the petitioner. Thereafter, on the condition that the petitioner did not show his



willingness to keep his wife with all honour and dignity, the bail bond of the petitioner was cancelled and petitioner was taken into custody. Petitioner was in custody since 06.08.2019. It is further submitted that thereafter the petitioner moved this Court for grant of regular bail and this Court by order dated 19.11.2019 again granted provisional bail to the petitioner keeping in view the chance of settlement between the husband and the wife. The matter was also sent to the Mediation Centre of Patna High Court but the Mediator reported that even after best and sincere efforts, the dispute between husband and wife could not be resolved. Learned counsel for the petitioner submits that petitioner has already filed divorce case which is pending before the Principal Judge, Family Court, Supaul. Once the petitioner was sent to jail, he is not willing to keep his wife. The petitioner is always ready for one time settlement of dispute. Hence, the petitioner deserves bail.

Learned A.P.P. and Mr. Arun, learned counsel for the informant vehemently opposed the prayer for bail and submitted that petitioner firstly forcibly established physical relation with the victim time and again and even thereafter when the petitioner solemnized marriage on persuasion of the villagers, the petitioner kept the victim for sometime but again the petitioner started subjecting her to all sorts of torture and drove her out from the house. The victim is still ready to live with her husband but it is the husband who is not at all willing to keep his wife on one pretext or the other.

It appears from the records that firstly the informant made allegation against the petitioner that the petitioner committed rape with her but later on, both solemnized marriage and started living as husband and wife. It appears that relation of



husband and wife could not remain well and again the dispute arose between the husband and the wife. The divorce case has already been filed. The petitioner has remained in jail for more than three months.

Considering the aforesaid facts, let the petitioner, above named, be released 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 S.D.J.M., Supaul in connection with Supaul Mahila P.S. Case No.112 of 2018.

(Prabhat Kumar Jha, J)

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