

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77136 of 2019

Arising Out of PS. Case No.-254 Year-2016 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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Md. Faiyaz, Son of Md. Moin, Resident of Village - Barari, P.S.- Mehrama,
District - Godda.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rubana Khatoon, Wife of Md. Faiyaz, D/o Md. Akbar, Resident of Village - Ahmadkhani, Puraini, P.S.- Jagdishpur, District - Bhagalpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda
For the Opposite Party/s : Mr. Abhay Kumar

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 17-02-2020 Heard learned counsel for the petitioner and learned APP
for the State.

The petitioner has filed the instant application for grant of anticipatory bail apprehending his arrest in a case under sections 323, 341, 498A and 34 of the Indian Penal Code.

As per allegation in the complaint, a 'Nikah' between the petitioner and the complainant was performed in the year 2013. There is allegation of demand of dowry by way of motorcycle, Fridge, T.V. etc. and of having physically and mentally tortured the complainant.

It is submitted by learned counsel for the petitioner that much prior to lodging of the complaint in the year 2016, in the



year 2015 itself a suit being Original Suit no.117 of 2015 was lodged in the Court of Principal Judge, Godda under section 281 of the Mohammedan Law by the petitioner seeking the relief of restitution of conjugal right against the respondent i.e the complainant herein. The said suit was decreed by judgment dated 6.6.2018. Attention of the Court is drawn to the order dated 11.9.2019 of the Court below wherein it has been noted that the complainant Rubana Khatoon was present in Court and besides making allegations against the petitioner she flatly refused to go to the matrimonial house and live with the petitioner. It is thus submitted by learned counsel for the petitioner that the petitioner besides having no criminal antecedent has taken all steps to restore his matrimonial relationship with the complainant.

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

Having heard learned counsel for the parties and in the facts and circumstances of the case including the nature of allegation together with the earlier filing of the original suit in the family court, the judgment passed therein and the observation of the learned Court below in presence of whom the complainant refused to go to the matrimonial house of the



petitioner, this 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 Complaint Case No. 254 of 2016 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 S.D.J.M.
Bhagalpur, subject to the conditions as laid down in section 438
(2) of Criminal Procedure Code.

(Partha Sarthy, J)

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