

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78934 of 2019

Arising Out of PS. Case No.-6 Year-2019 Thana- MAHILA PS District- Khagaria

Md. Jahangir, aged about 48 years, son of Md. Razzak, resident of village - Rani Sakarpur, P.S.- Gangaur, District- Khagaria

... .. Petitioner/s

Versus

1. The State of Bihar
 2. Apsana Khatoon, aged about 44 years, female, wife of Md. Jahangir, resident of village - Rani Sakarpura, P.S.- Gangaur, District- Khagaria
- Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ram Sumiran Rai, Advocate
For the State	:	Mr. Syed Mojibur Rahman, APP
For the Opposite Party No.2:	:	Ms. Arpana Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 30-09-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Ram Sumiran Rai, learned counsel for the petitioner; Mr. Syed Mojibur Rahman, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Ms. Arpana Kumari, learned counsel for the opposite party no. 2.

3. The petitioner, who is the husband of the opposite party no. 2, apprehends arrest in connection with Khagaria (Mahila) PS Case No.06 of 2019 dated 07.01.2019, instituted under Sections 341, 323, 498-A and 494 of the Indian Penal



Code.

4. The allegation against the petitioner is that he had turned out the opposite party no. 2 from the matrimonial home after marrying another woman and had also assaulted her after taking away her jewellery and she was left without any maintenance and was being maintained by her parents.

5. Learned counsel for the petitioner submitted that he has filed supplementary affidavit in which the following has been stated at paragraphs no. 5 and 6:

“5. That it is stated that the informant and her son are living in house of the petitioner at present which has not been sold to anybody and it shall be transferred in the name of the son of opposite party no. 2 and further that the opposite party no. 2 and her son would be given sufficient maintenance for sustaining themselves and further expense of the future study of the son of the opposite party no. 2 would also be borne by the petitioner. It is stated that the petitioner ensures that the opposite party no. 2 and her son will live with full dignity, honour and security in the matrimonial home without any threat or disturbance from the petitioner or his family members.

6. That it is humbly stated here that pursuant to order of the Hon'ble Court passed on 15.09.2020 the petitioner has already filed an affidavit before the Court Smt. Simmi Kujur learned Judicial Magistrate 1st Class, Khagaria on 18.09.2020 stating therein that the opposite party no. 2 namely Afsana Khatoon is wife of the petitioner and with their conjugal life one son had born namely Md. Alam. He further stated in his affidavit



that his wife and her son are living in his house which would not be sold to anybody in future and also ensured that he will pay the amount for study of his son and also never give threatening.”

6. Learned APP submitted that once the petitioner has undertaken to take care of the opposite party no. 2 and the son and also maintain and take care of expenses of the studies of the son as also not to disturb in her living in the matrimonial home, the Court may take a lenient view.

7. Learned counsel for the opposite party no. 2 took the same stand as taken by the learned APP and submitted that she would not oppose the prayer for anticipatory bail to the petitioner in the present case. However, she submitted that the Court may safeguard her interest that the petitioner does not resile from the stand taken before this Court in the present proceeding

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs.25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the C.J.M., Khagaria, in Khagaria (Mahila) PS Case No.06 of



2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973, and further (i) that one of the bailors shall be a close relative of the petitioner and (ii) that the petitioner shall comply with the undertaking given before this Court as has been recorded above, with modification that the property need not be transferred in favour of the son of the opposite party no. 2, for the present.

9. If there is any violation of the undertaking, as noted above, by the petitioner, it shall be open to the opposite party no. 2 to bring it to the notice of the Court below. If such an application is filed and the Court below after hearing the petitioner finds the allegation to be correct, the bail bonds of the petitioner shall be cancelled and he shall be taken into custody.

10. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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