

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85961 of 2019

Arising Out of PS. Case No.-9 Year-2018 Thana- MANJHAGARH District- Gopalganj

Taukir Ali S/o Late Manir Dewan Resident of Village- Chamari Patti, P.S.-
Fulwariya, Distt- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Memtara Khatoon W/o Firoz Alam, D/o Late Kasim Sai Resident of Village-
Chamari Patti, P.S.- Fulwariya, Distt- Gopalganj, at present resident of
village- Allapur, P.S.- Manjhagarh, Distt- Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mohammad Sufyan
For the Opposite Party/s : Mr.Md. Fahimuddin

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

3 06-02-2020 Heard learned counsel for the parties.

This application has been filed under Section 482 of Cr.P.C for quashing the conditions imposed in the order dated 16.11.2019 passed by learned Additional District & Sessions Judge-V, Gopalganj in connection with Bail Petition No. 798 of 2019 arising out of Manjhagarh P.S. Case No. 09 of 2018 (Trial No. 2031 of 2019) instituted under Sections 498A and 406 of the IPC and Section 3/4 of Dowry Prohibition Act, by which petitioner has been granted regular bail on a condition to furnish bail bonds after complying the order dated 22.02.2018 passed by Learned Sessions Judge, Gopalganj in ABP No. 286 of 2018 by which all accused including petitioner were directed to pay Rs. 6000/- per month to the Informant and her child as condition



for grant of anticipatory bail.

Informant-Opposite Party No. 2 had filed a complaint petition before learned CJM, Gopalganj, which was referred to the police for investigation under Section 156(3) of Cr.P.C giving rise to Manjhagarh P.S. Case No. 09 of 2018 under sections 498A and 406 of the IPC and Section 3/4 of Dowry Prohibition Act.

According to complainant-opposite party no. 2 the marriage was solemnized with accused Firoz Alam on 25.02.2016 as per muslim rites and customs and thereafter she went to her matrimonial home where she was subjected to torture and harassment by her in-laws for non fulfillment of demand of dowry.

All accused persons including petitioner filed anticipatory bail petition before Sessions Judge, Gopalganj giving rise to ABP No. 286 of 2018, and all the accused including petitioners were granted pre-arrest bail by order dated 22.02.2018 and it was observed that accused-husband was ready to keep his wife with full dignity and honour and the allegation upon accused-husband of solemnizing second marriage is not correct. Allegations against petitioner is general and omnibus in nature, as such he deserve the privilege of bail.



Informant agreed to accompany her husband to her matrimonial home with a condition that he will not solemnize second marriage. In presence of accused-husband, Informant-wife on a query made by the court accused-husband denied of solemnizing second marriage and was ready to keep her wife with full dignity and honour. Accordingly, pre-arrest bail was granted on a condition that proper maintenance of Informant-wife and her female child be provided.

After completing investigation, police submitted chargesheet against accused-persons including petitioner upon which court took cognizance and issued summons for their appearance to face trial. However, even after receipt of summons, petitioner did not appear and his bail bond was cancelled and nonailable warrant of arrest was issued against him and he was apprehended by police and brought before the court and was sent to judicial custody.

Learned court has observed that Informant had filed a petition dated 16.04.2019 that after bail accused persons are not ready to keep Informant nor they are paying Rs. 6000/- per month as per order of Sessions Judge, Gopalganj passed in ABP No. 286 of 2018, and SDJM, Gopalganj, rejected his application for grant of regular bail by order dated 23.10.2019. Thereafter



petitioner filed application for grant of regular bail before the Sessions Court in which regular bail was granted to the petitioner with a condition that he would comply the conditions as laid down in order granting anticipatory bail to petitioner by order dated 16.11.2019 passed in Regular Bail Petition No. 798 of 2019 passed by Additional District & Sessions Judge-V, Gopalganj.

It has been submitted by learned counsel for the petitioner that the condition to keep the wife was to be complied by the husband and he is liable to pay maintenance amount and no such condition can be put on petitioner who is Brother-in-law of the Informant as neither he is expected to keep the Informant nor laible to pay maintenance to her and her children as such, such condition cannot be imposed upon him while granting regular bail.

After perusing the order passed by the court below and hearing learned counsel for the petitioner and Informant, this Court finds that the condition as imposed in Regular Bail Petition No. 798 of 2019 passed by Additional District & Sessions Judge-V, Gopalganj on 16.11.2019, was unwarranted and as such, such conditions are set aside and petitioner is directed to be released on regular bail upon furnishing bail bond



of Rs. 20,000/- with two sureties of the like amount each to the satisfaction of learned court below where the case is pending, in connection with **Manjhagarh P.S. Case No. 9 of 2018 (Trial No. 2031 of 2019)** with following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the court below.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(S. Kumar, J)

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