

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25321 of 2021

Arising Out of PS. Case No.-444 Year-2019 Thana- SAUR BAZAR District- Saharsa

MD. ELIYASH SON OF MD. BADRI MIYA @ BADRI SAH R/O RAHTA
LAXMIPUR, POLICE STATION- KUMARKHAND AND DISTRICT-
MADHEPURA

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. MD. IRSHAD SON OF LATE MD. BADRUDDIN R/O JAMHARA, P.S.
SAUR BAZAR (PATARGHAT O.P.), DISTRICT-SAHARSA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Verma
For the Opposite Party/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 23-07-2021 Heard learned counsel for the petitioner and the State
through virtual mode.

Learned counsel for the petitioner is directed to
remove the defect(s), as pointed out by the office, within a
period of four weeks after restoration of normalcy.

The petitioner is apprehending his arrest in a case
registered under Sections 341, 323, 498A, 120-B, 365 and 366
of the Indian Penal Code.

Allegation against the petitioner is of committing torture
upon the victim due to non-fulfillment of demand of dowry.
There is allegation of getting disappeared the informant's sister
also.



It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case due to petty family dispute. The petitioner happens to be husband of the victim. A complaint case was filed in the court below on 01-11-2013. Thereafter, on 06-11-2019, the complaint case was referred to the concerned police station under Section 156(3) of the Cr. P.C. for instituting the FIR, on the basis of which, the present FIR has been instituted for the occurrence, alleged to have taken place between 27-03-2009 to 12-10-2013. After filing of the complaint case, on 10-10-2013, the petitioner's father and co-accused Badri Sah filed an informatory petition before the concerned police station stating that the victim is in habit of leaving the house. It was further stated that since 04-10-2013, the victim has left the house of the petitioner's family. This fact was brought to the notice of the Superintendent of Police vide Annexure-3 to the present application. By Annexure-4, a report was also submitted by the investigating officer to the Superintendent of Police and this fact was found to be true that the victim was in habit of leaving her in-laws' house without informing anyone. The present case is a mala fide



prosecution.

On behalf of the State, it is submitted that the petitioner is named in the Complaint Case/F.I.R.

Considering the aforesaid facts and circumstances of the case and also the lockdown, the petitioner, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned Chief Judicial Magistrate, Saharsa in connection with Saur Bazar (Patarghat O.P.) P.S. Case No. 444 of 2019 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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