

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.27500 of 2019**

Arising Out of PS. Case No.-1998 Year-2016 Thana- PATNA COMPLAINT CASE District-  
Patna

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Shankar Mallick @ Shamkar Mallick, aged about 34 years, male, Son of Dilip Mallick, Resident of Sonarpur, Kangachhi, (Convent Lane Tengra S.O.) Post-Sonarpur, Police Station- Sonarpur, District- 24, Paragana South, Kolkata, Pin Code- 700150 (W.B.).

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sarita Kumari, aged about 25 years, female, D/o - Late Satyanarayan Azad, C/o Naseeb Lal Rai, House No.- 15H, Shrinath Nagar, Ramnagri, P.S.- Rajiv Nagar, Ashiyana Digha Road, District- Patna, Permanent Address- C/o Bhagirath Ram, At- Shivpuri, Chitkohra, P.O.- Anisabad, P.S.- Gardanibagh, District- Patna.

... .. Opposite Party/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Rajendra Narain, Sr. Adv. |
| For the O.P. No. 2   | : | Mr. Deovind Kumar Singh, Adv. |
| For the State        | : | Mr. Arun Kumar Pandey, APP    |

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**ORAL ORDER**

8      23-08-2021                      Heard Mr. Rajendra Narain, the learned Senior Advocate for the petitioner and Mr. Deovind Kumar Singh, the learned counsel for the complainant/opposite party No.



2. The State is represented by the learned APP.

The petitioner seeks bail in anticipation of his arrest in connection with Complaint Case No. 1998 (C) of 2016, dated 22.06.2016, in which cognizance has been taken against him for the offences under Section 498(A) of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

It has been submitted on behalf of the petitioner that he is the husband of the complainant/opposite party No. 2 and despite the complainant/opposite party No. 2 having arrayed every member of the family of the petitioner as accused in this case, cognizance was taken only against him and his mother. Apart from this, it has been submitted that the complainant/opposite party No. 2 had filed an application before the appropriate Court for a decree for restitution of conjugal rights, but the same was dismissed. Because the complainant/opposite party No. 2 did not mend her ways and created difficulties for the petitioner, who at that time was residing in Delhi, he had to file a divorce petition before the competent Court. During the pendency of the divorce



proceeding, an order was passed under Section 24 of the Hindu Marriage Act, directing the petitioner to make payment of Rs. 6,000/- per month *pendente lite* to the complainant towards. With the dismissal of the divorce petition, that order also stands vacated.

This Court had, in the first instance, referred the matter to the Mediation and Conciliation Centre of the Patna High Court. Though there is no report of the Mediator on record, but the counsel for the parties have informed this Court that the mediation between the parties has failed. Both the parties have different stories to narrate and responsibilities to be fixed for such failure of the mediation proceeding.

Nonetheless, as the situation stands today, there is no resumption of matrimonial life and there is no decree of any judicial separation or divorce.

The complainant/opposite party No. 2 is still desirous of living with the petitioner as his legally wedded wife.

The learned counsel for the petitioner is also not



averse to the idea of a negotiation afresh under the supervision of the Court below.

The learned counsel for both the parties are of the view that it would be in the best interest of the spouses that the dispute between them is amicably settled; be it by a decision of resumption of matrimonial life or by a one time settlement.

The complainant/opposite party No. 2 is now only supported by her mother, who herself is on the brink of destitution. The proceeding under Section 125 Cr.P.C. brought by the complainant/opposite party No. 2 has not yet been decided. The situation today is that she is without any means to fend for her livelihood.

Under the aforesaid circumstances and looking at the stand of the parties, this Court directs that in case the petitioner surrenders before the Court below within a period of three weeks from today with a clear undertaking that he is ready for negotiations with the complainant/opposite party No. 2 either for resumption of matrimonial life or for one time settlement or for any other amicable method of settling



the dispute, he shall be released on provisional bail. But before that, notice shall be issued to the complainant/opposite party No. 2 and on her appearance, the Court shall assess the respective stand of the parties and ensure that an amicable settlement is arrived at between the spouses. Should the Court entertain any idea that the petitioner is trying to evade his responsibilities as a husband and is unnecessarily raising issues which are coming in the way of amicable settlement, no relief shall be granted to him. Likewise, if the stand of the other spouse (complainant/opposite party No. 2) is found to be unreasonable or irreluctance, that shall also be taken into account before passing an interim order for provisional bail or for confirming the same.

The parties shall co-operate in the entire exercise.

With the aforesaid observation/direction, the application stands disposed off.

**(Ashutosh Kumar, J)**

Praveen-II/-

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