

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20044 of 2020

Arising Out of PS. Case No.-767 Year-2019 Thana- PHULWARISHARIF District- Patna

Nagmani Pintu, aged about 36 years (Male), Son of Madan Kumar @
Madan Singh Resident of Village - Khorampur, P.S.- Deshri, Distt.-
Vaishali, At/P Vashisth Colony Harni Chak, Phulwari Sharif, P.S.-
Phulwarisharif, Dist.- Patna

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Manoj Kumar, Advocate
For the State	:	Mr. Raj Kishore Singh, APP
For the Informant	:	Mr. Abhay Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 05-01-2021 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

The petitioner, in the present case, is seeking pre-arrest bail in connection with Phulwarisharif P.S. Case No. 767 of 2019 registered for the offences punishable under Sections 498(A)/506 of the Indian Penal Code.

Learned counsel for the petitioner submits that as per the First Information report, the marriage between the petitioner and the informant took place on 28.02.2011 in accordance with Hindu Rights and customs. The allegations against the petitioner and co-accused are that they had indulged in mental and physical harassment to the informant.



It is alleged that the accused persons did not allow the informant to reside in the house and they threatened her in various ways. It is alleged that her husband is having illicit relationship and this may be verified from the call details of the given numbers.

Learned counsel submits that prior to lodgment of the present case the petitioner has lodged one F.I.R. being Fulwarisharif P.S. Case No. 69/2019 against the informant and her brothers alleging that they have entered into the house of the petitioner and assaulted him which has resulted in injuries to the petitioner.

It is also submitted that the petitioner has filed a matrimonial case being Matrimonial Case No. 152/2019 under Section 13(1), (ia) of Hindu Marriage Act on 02.02.2019. In the matrimonial suit, he is seeking a decree of divorce on the ground of desertion.

Learned counsel submits that the present F.I.R. has been lodged against the petitioner only with an intention to harass him. He has further stated that the informant had left the house of the petitioner in the month of April, 2013, without consent of the petitioner and other family members. The petitioner filed a petition under Section 9 of the



Restitution of Conjugal Rights but the same was dismissed in default on 07.06.2016, and, thereafter, all of a sudden, the informant came back and though the petitioner tried his best to lead his conjugal life but in such situation he is not ready to lead conjugal life due to fear.

Learned counsel submits that in such circumstance the petitioner has left the house and is presently residing elsewhere. This Court finds that in the body of the petition though the address of the petitioner has been mentioned as that of his native place at/P.O. Vashisth Colony, Harni Chak, Phulwarisharif, P.S. - Phulwarisharif, District – Patna, but the learned counsel has informed this Court that the petitioner is not residing at either of the two addresses.

Learned counsel for the informant has opposed the prayer for anticipatory bail of the petitioner. Learned counsel submits that police has investigated the matter and after investigation sufficient materials have been found to proceed against the petitioner who is the husband of the informant.

Learned counsel submits that the informant has been harassed by the petitioner and this fact would be apparent on the face of it when this Court will notice the admitted position that the matrimonial house in which the informant was living



has been sold out to a friend of the father of the petitioner who has now filed an Eviction Suit for evicting the informant from the said house.

It has further been informed that earlier the petitioner had filed an application in the learned Family Court at Patna for award of maintenance to her and the minor son who is a school going boy. This petitioner appeared in the said Matrimonial Case being Matrimonial Case No. 152/2019, opposed the application for award of maintenance, but after noticing the materials on the record particularly the income tax return of this petitioner for the assessment year 2017 – 2018, the learned Family Court awarded a sum of Rs. 9,000/- per month for the informant and Rs. 3,000/- per month for the minor son, the total being Rs. 12,000/- per month. This order was passed on 10.12.2019 but not a single farthing has been made available to the informant towards maintenance and, they are being continuously neglected. It has further been informed that no appeal/revision has been preferred by the petitioner against the order of the learned Family Court, Patna.

Learned counsel submits that the fact that amount of maintenance awarded *pendente lite* is not being made



available to the informant and her minor son shows the conduct of the petitioner and it may be looked into while considering the prayer for grant of privilege of anticipatory bail.

Learned counsel for the informant submits that the petitioner is not even cooperating in the proceeding pending before the learned Principal Judge, Family Court at Patna as he is not putting his appearance in the court. It is, thus, his submission that in the totality of the facts and circumstances of the case where the petitioner has no respect for the order passed by the court, there are allegations of serious nature against him and police has in course of investigation found sufficient materials to proceed and a charge-sheet has been filed against him, this Court need not extend the privilege of anticipatory bail to the petitioner.

Mr. Raj Kishore Singh, learned A.P.P. for the State has also opposed the prayer for anticipatory bail of the petitioner. He has returned the case diary. Let it be kept on the record.

Yesterday, when the matter was called out, this Court enquired from Mr. Manoj Kumar, learned counsel for the petitioner as to whether or not the petitioner is complying



with the order of learned Family Judge. Mr. Manoj Kumar, learned Advocate took time to seek instruction and today it has been informed that the petitioner has not complied with the said order and he has been given to understand without much detail that the petitioner is seeking a review of this order in the learned court below. No case number however of any such review petition has been given to this court. Learned counsel for the petitioner submits that in the facts and circumstances of the case the petitioner deserves privilege of anticipatory bail.

As a last minute effort to get the matter adjourned, learned counsel for the petitioner has prayed to call for the records of the Matrimonial Case. This Court is unable to appreciate such submissions when he is himself unable to know from this petitioner as to what is the case number of review petition and how filing of a review, if any, alone would be any ground to request this Court to call for the records. In the opinion of this Court, the prayer has been made at this stage only on the pretext to get the matter adjourned, which this Court would reject outrightly.

Considering the facts and circumstances placed before this Court and having noticed that there are ample



materials on the record and serious allegations have been made of torture meted out to the informant by this petitioner, police has already submitted a charge-sheet against him, the petitioner is not even disclosing his correct present residential address in the petition filed before this court and it is not denied that there is an order awarding ad-interim maintenance to the informant and her minor son but for more than a year the petitioner has not complied with the said order. Conduct of the petitioner would definitely be a relevant factor for this court while considering his prayer for anticipatory bail and this court has found that on both counts (i) in the nature of the allegations which has been investigated and the petitioner stands charge-sheeted as also (ii) on the conduct, this Court is not inclined to grant privilege of anticipatory bail to the petitioner.

This application is, thus, dismissed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

