

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7247 of 2021

Arising Out of PS. Case No.-778 Year-2016 Thana- BUXAR COMPLAINT CASE District-
Buxar

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PREM SHANKAR @ PREM SHANKAR RAM, S/o Late Laxman Prasad,
Resident of Village-Shahpur, P.S.-Shahpur, District-Bhojpur.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
 2. Suneeta Devi, W/o Prem Shankar @ Prem Shankar Ram, D/o Sonalal Ram
Resident of Village-Semri Dudhipatti, P.S.-Semri, District- Buxar.
- Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar, Adv.
For the Opposite Party/s : Mr.Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 22-12-2021 Learned counsel for the petitioner undertakes to remove

all the defects as pointed out by office within four weeks after start

of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned APP for the State. In the nature of the
order proposed to be passed, this Court is not directing issuance of
notice to the complainant.

The petitioner in the present case is seeking pre-arrest
bail in connection with Complaint Case No.778 © of
2016/Tr.No.2897 of 2016 registered for the offences punishable
under Section 498(A) of the Indian Penal Code and Section 4 of
the Dowry Prohibition Act.

Earlier the prayer for anticipatory bail of this petitioner



was rejected by a learned coordinate Bench of this Court in Cr.Misc.No.28969 of 2017.

Learned counsel for the petitioner submits that after the said rejection order the circumstances have changed, therefore, the petitioner has approached again to this Court for grant of privilege of anticipatory bail.

It appears that the present case arises out of a complaint petition filed by the wife of the petitioner. The parties have got a girl child out of their wedlock, however, due to incompatibility issues the attempt taken to mediate and amicably resolve the dispute has failed.

Learned counsel for the petitioner has placed before this Court a copy of the supplementary affidavit which has been filed in this Court on 20.07.2021. Since the said copy is not on the record, learned counsel has provided his own copy and the same has been taken into consideration.

With the affidavit, there is a copy of the application said to have been filed in the Family Court at Buxar in Divorce Case No.233 of 2020 under Section 33(B) of the Hindu Marriage Act, 1955. There is also a statement of the complainant recorded in the court of learned Principal Judge, Family Court in which the complainant admits that she has got dissolved her marriage and she has received a sum of Rs.3,75,000/- on account of the



settlement.

The petition filed in the said divorce case is supported by an affidavit and in the said affidavit the complainant talks of withdrawal of the complaint case filed by her.

Learned counsel submits that in the aforesaid circumstance no purpose would be served by putting the petitioner behind the bars, hence, the petitioner deserves privilege of anticipatory bail.

On the other hand, learned APP for the State submits that the petitioner has been declared absconder in the complaint case, hence, the privilege of anticipatory bail may not be granted to him. In course of his submissions, however, learned APP has reasonably submitted that in the case of this nature which arises out of a matrimonial dispute and where the parties have amicably resolved to settle their disputes outside the court, no fruitful purpose will be served by putting the petitioner behind the bars, provided however he has paid the amount recorded in the compromise to his wife.

Having regard to the materials placed before this Court, this Court agrees with the submissions of learned APP for the State. Apparently, it appears to this Court from the materials on the record that the parties have entered into a settlement and the complainant has admitted severance of relationship with this



petitioner and further she has agreed to get closed the cases filed against him under Section 498A of the Indian Penal Code.

Thus, this Court is of the considered opinion that let the petitioner surrender in the court below within a period of four weeks from today with a surrender-cum-bail application and with prior notice to the complainant. On such surrender-cum-bail application, the learned court below shall consider the prayer for regular bail of the petitioner keeping in view that the parties have settled their disputes amicably as it appears from the records and unless those documents are controverted, there would be no reason to put the petitioner behind the bars, the court below shall consider the surrender-cum-bail application of the petitioner and would pass an appropriate order in the light of the observations hereinabove on the same day. Despite prior notice to the complainant or her lawyer, if she does not appear or cooperate in course of consideration of the prayer for bail of the petitioner, the same will not be a reason for the court to avoid hearing and disposal of the application.

(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'.

