

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31974 of 2020

Arising Out of PS. Case No.-866 Year-2018 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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Md. Nizam @ Niazam, Son of Md. Nasir, Resident of Village- Mal Mal
Nawtoliya, P.S.- Basopatti, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rahima Khatoon, Wife of Md. Nizam, Resident of Village- Malmal
Nawtoliya, P.S.- Basopatti, District- Madhubani.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Gagan Deo Yadav- Advocate
For the Complainant	:	Mr. Jitendra Kumar Bharti- Advocate
For the Opposite Party/s	:	Mr. A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

7 28-10-2021 Heard the learned Advocate for the petitioner, learned
counsel for the complainant and learned APP for the State.

The petitioner seeks bail in anticipation of his arrest in
connection with T.R. No.707 of 2019 arising out of Complaint
Case No.866 of 2018, in which cognizance has been taken under
Sections 323 and 498(A) of the Indian Penal Code.

The learned counsel for the complainant, at the outset,
draws the attention of this Court towards the order dated
17.09.2021. From perusal of which, it manifests that the
petitioner has given an undertaking before this Court that he is
ready to keep the opposite party no.2 with full dignity, honour
and security. From perusal of the order dated 17.09.2021, it



would manifest that the learned counsel for the petitioner submitted that without going into merits of the matter, he desires to take back the opposite party no.2 to the matrimonial home and assures that her dignity, honour and security shall be protected and all her needs shall be taken care of.

Accordingly, this Court had directed the petitioner to go to the house of opposite party no.2 to fetch her on 25.09.2021 as was suggested by the learned counsel for the petitioner and agreed by the learned counsel for the complainant.

Further, this Court had recorded that upon doing so, the petitioner would be given cordial reception and thereafter the opposite party no.2 shall accompany him to the matrimonial home and the petitioner shall ensure that the opposite party no.2 is kept in the matrimonial home with full dignity, honour and security and he shall also take care of all her needs. The opposite party no.2 shall be free to talk to, meet and visit any person she desires without any hindrance either by the petitioner or his family members and the matter was directed to be listed on 26.10.2021 amongst the top five cases.

The learned counsel for the complainant submits that despite agreeing before this Court that the petitioner shall take



the opposite party no.2 back to her matrimonial home, but instead of complying with the direction issued in terms of the submission made by the learned counsel for the petitioner, the petitioner has rather violated the order with impunity and has not even filed an application seeking extension of time for bringing his wife back.

The learned counsel for the petitioner submits that the petitioner is aware of the order passed by this Court and it was duly communicated to him. It is will of the petitioner to take his wife back or not, but when the petitioner had agreed before this Court that the petitioner will take his wife back then he ought to have honoured the order passed by this Court.

Regard being had to the facts and circumstances of the case that despite agreeing before this Court that the petitioner will take back his wife to her matrimonial home and got interim protection, but the petitioner misused the interim protection granted by this Court by not complying the order passed based on his own submission before this Court, this court is not inclined to enlarge the petitioner on anticipatory bail.

Accordingly, his prayer for anticipatory bail stands rejected.

However, if the petitioner surrenders before the



Court below and seeks bail, the Court below shall consider the case on its own merits, without being prejudiced by the fact that the present anticipatory bail application has not been entertained by this Court.

(Satyavrat Verma, J)

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