

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38826 of 2020

Arising Out of PS. Case No.-112 Year-2020 Thana- RAMPUR District- Gaya

AMJAD HUSSAIN Son of AINUL HUQUE Resident of Village - and P.O.-
Puran, P.S.- Karpi, Distt.- Arwal.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar Mrs. Rashmi Kumari
For the Informant	:	Mr. Jameel Akthar Mr. Arvind Kumar
For the State	:	Mr. Shyameshwar Dayal, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

8 02-12-2021 In view of the order dated 17.11.2021, the Superintendent of Police, Gaya has filed affidavit sworn by him before the Notary Gaya complying with the order dated 01.12.2021.

During the course of hearing, seeing the affidavit of the Superintendent of Police, Gaya which has been sworn before the Notary Gaya and while hearing the case, this Court had some doubts whether the affidavit to be filed in the High Court can be sworn before the Notary or before the Oath Commissioner and with regard to the same, a report was called for from the Civil Stamp Reporting Section of the High Court. The Section Officer of the Civil Stamp Reporting Section vide his report dated 01.12.2021 has said that an affidavit sworn



before a Notary Public is, perhaps, not an affirmation before an Officer appointed by the Court and, therefore, it cannot be entertained by this Court under Rule 23 of Chapter III of the Patna High Court Rules read with Rule 41 of the Civil Courts Rule.

In this regard, he has also drawn the attention of this Court to the case of (*Mahanth Ram Autar Das Vs. State of Bihar, 1984 BBCJ, 49*).

In these circumstances, any affidavit which is to be filed before this Court should be sworn before the Oath Commissioner and not before a Notary.

The affidavit submitted by the Superintendent of Police, Gaya, in the present case has already been taken on record and for the purpose of disposal of the case the facts mentioned in the affidavit may be treated as a report by the Superintendent of Police, Gaya, not on affidavit.

The office is directed to inform all the Sections that “any affidavit filed before this court should be as per the Patna High Court Rules” and the same shall be complied by the parties.

Heard the parties.

The petitioner apprehends his arrest in connection



with Rampur P.S. Case No. 112/2020 registered for the offences punishable under Sections 341/323/498-A/504/34 of the Indian Penal Code.

On the merits of the case, it has been submitted by learned counsel for the petitioner that the petitioner is working as a Data Entry Operator and he earns Rupees Twenty thousand per month. He also submits that informant is working as a Panchayat Teacher and she is getting salary of Rupees Twenty-eight thousand per month.

Learned Advocate for the informant has denied this fact and he submits that the informant is getting salary of Rupees Seventeen thousand per month.

It has been submitted by learned counsel for the petitioner that he has a son also and he has himself voluntarily offered to pay a maintenance of rupees five thousand per month for his son.

At this juncture, learned counsel for the informant submits that the informant does not need any money to maintain herself or her son.

On this, learned counsel for the petitioner has said that he will open an account in post office in the name of his son and will make a recurring deposit of Rupees Five thousand per



month in the name of his son which shall not be withdrawn by him without permission of the Court below. That money shall be utilized for the welfare of the son and for no other purpose.

It has been submitted by learned counsel for the Informant that the petitioner is relative of a number of police officials and charge-sheet has been submitted under Section 498-A of the Indian Penal Code only and not under $\frac{3}{4}$ of the Muslim Women (Protection of Rights on Marriage) Act, 2019.

The Superintendent of Police, Gaya, is directed to file a supplementary charge-sheet in this case after examining whether Triple Talaq Act is applicable in the case of the petitioner or not after investigation.

Considering the facts and circumstances of the case, the prayer of the petitioner for grant of anticipatory bail is allowed.

Accordingly, let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Gaya, in connection with Rampur P.S. Case No. 112/2020, subject to the conditions as laid down under Section



438 (2) of the Cr.P.C.

With the aforesaid directions and observations, this application is allowed.

(Sandeep Kumar, J)

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