

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7028 of 2021

Arising Out of PS. Case No.-1111 Year-2019 Thana- SASARAM NAGAR District- Rohtas

Md. Asif Ali Son Of Late Abdul Rasid Resident Of Village-Lahangpura,
Aurangabad, Sarai Fatak, House No- 23 , Varanasi, P.S- Sigra, Distt- Varanasi
State- U.P

... .. Petitioner

Versus

1. The State of Bihar

2. Chandni Parwin, d/o Md. Zahir Faruki, r/o Company Saray, Thana
Sasaram, Rohtas

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Deovind Kumar Singh, Advocate

For the Opposite Party/s : Mr. Binod Kumar, APP

For the Informant : Mr. Md. Fazle Karim, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 01-12-2021

Learned counsel for the petitioner undertakes to remove all the defects as pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner, Mr. Binod Kumar, learned APP for the State and learned counsel representing the opposite party no. 2.

The petitioner in the present case is seeking pre-arrest bail in connection with Sasaram Town P.S. Case No. 1111 of 2019 registered for the offences punishable under Sections 498A/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

On the last date i.e. on 23.11.2021, the matter was adjourned for learned counsel representing O.P. No. 2 to enable him to come with instruction. The order dated 23.11.2021 is reproduced hereinbelow for ready reference:

“Let Chandni Parwin who is the complainant and



has already entered appearance in this case through the learned Advocate be added as Opposite Party No. 2.

Let the matter be called out on the next date i.e. on 01.12.2021 when learned counsel for O.P. No. 2 shall come with instruction.

In the meantime, keeping in view the statement made in the petition that the petitioner is ready to keep his wife and take care of her treatment, the petitioner shall not be arrested in connection with Sasaram Town P.S. Case No. 1111 of 2019 pending in the court of learned C.J.M., Rohtas at Sasaram.

On the next date, the petitioner shall produce some positive proofs that he is taking care of his wife.”

Today, this Court has been informed that O.P. No. 2 is always looking for her stay with the petitioner to lead a happy conjugal life with her family. She has got one male child who is hardly one year old and both the O.P. No. 2 and the little child require attention of the petitioner.

Learned counsel for the petitioner, however, takes a different approach. He submits that after the last order was passed by this Court, the petitioner has transmitted Rs.7,500/- in two installments to the O.P. No. 2 in order to enable her to take care of her treatment, however, he wants that the O.P. No. 2 first gets herself treated living at her Maika and only after she gets cured, the petitioner will bring her back to her matrimonial home.

This Court finds that the plea which is being taken on behalf of the petitioner is not a bona fide plea inasmuch as on the last



date as well as in his statement in paragraph '9' of the petition, he has made a statement apart from others that he is ready to keep his wife with full honour and dignity but with a rider that after she gets cured.

In the opinion of this Court, the very plea which has been taken by the petitioner speaks of his conduct which *prima-facie* satisfies this Court that the allegation against him of committing cruelty against his wife writs large and by not taking care of his wife during her illness the petitioner is only continuing with the mental torture to his wife. The petitioner never took any step to take care of his wife and one year old child. This Court is, thus, not inclined to grant privilege of anticipatory bail to the petitioner. The prayer for anticipatory bail of the petitioner is, thus, rejected.

The Investigating Officer shall ensure execution of the non-bailable warrant which is already issued against the petitioner at the earliest opportunity, if necessary, he will visit the place of residence of the petitioner to execute the warrant within a period of 2 weeks from today.

The application stands disposed of accordingly.

(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'.

