

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2487 of 2020

Arising Out of PS. Case No.-526 Year-2019 Thana- BETTIAH CITY District- West
Champaran

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SARFARAJ HUSSAIN @ SONU S/o Abdul Latif R/o village- Santghat
Rameshwar Nagar, P.S.- Bettiah Town, District- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Afsana Khatoon Resident of Santghat Rameshwar Nagar, Ward No. 14, P.S.-
Bettiah Town, at present resident of Dawar Devi Chowk, Ganj No. 1, Ward
No. 16, P.S.- Bettiah Town, District- West Champaran

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ram Kishun Prasad, Advocate
For the Opposite Party/s	:	Mr. Ramesh Chandra, APP
For the O.P. No. 2	:	Mr. Shashank Shekhar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

5 22-03-2022 Heard Mr. Ram Kishun Prasad, learned Advocate for

the petitioner and Mr. Shashank Shekhar for the opposite party

no. 2. The State is represented by Mr. Ramesh Chandra, learned

APP.

The petitioner, who is the husband of opposite party
no. 2, seeks bail in anticipation of his arrest in connection with
Bettiah Town P.S. Case No. 526 of 2019 dated 17.07.2019
instituted for the offences under Sections 498-A, 341, 323, 504,
506 and 34 of the Indian Penal Code and Section 3/4 of the
Dowry Prohibition Act.

The learned counsel for the opposite party no. 2 has



stated before this Court upfront that she is not willing to go with the petitioner, as such a proposal by the petitioner is only an eye-wash for the purposes of grant of bail.

In order to support the aforesaid contention, Mr. Shashank Shekhar, learned Advocate for the opposite party no. 2 has submitted that a divorce petition has been filed by him before the court below and according to the information of opposite party no. 2, the petitioner has married another lady during the subsistence of his marriage with her. The petitioner has also displayed violent behaviour towards her, which has made her absolutely apprehensive for her life and therefore, she is not willing to join him in the matrimonial fold.

The learned counsel for the petitioner, however, has submitted that he has clear instructions that the petitioner is not ready for any settlement with regard to payment of any lump-sum amount towards the matrimonial dues of opposite party no. 2 but is ever willing and ready to give a try for reconciliation and restitution of conjugal rights, provided opposite party no. 2 is agreeable for the same.

From the arguments advanced on behalf of the parties/spouses, it appears that marriage has irretrievably broken down and the opposite party no. 2 is not at all willing to join the



matrimonial home along with the petitioner.

The bonafides of the petitioner also appears to be questionable when there is no positive assertion on his behalf that the divorce petition which has been filed before the court below would be withdrawn and an effort shall be made for settling the matrimonial dispute.

Considering the aforesaid stand of the parties, I am not inclined to grant anticipatory bail to the petitioner.

The prayer for anticipatory bail is therefore rejected.

However, if the petitioner surrenders before the court below and seeks bail, his application shall be considered on its own merits without being prejudiced by the fact that the present petition on his behalf has not been entertained.

The application stands disposed off accordingly.

(Ashutosh Kumar, J)

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