

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8856 of 2022

Arising Out of PS. Case No.-16 Year-2021 Thana- MAHILA PS District- Khagaria

Avdhesh Yadav, son of Shri Kailash Yadav, resident of Village - Bhadas
Dakshini, P.S. - Khagaria Mufassil, District - Khagaria (Bihar).

... .. Petitioner

Versus

1. The State of Bihar.
2. Priyanka Kumari, Daughter of Shree Giridhar Yadav, Resident of Mohalla -
Jay Prakash Nagar, Ward No. 21, Khagaria, P.S. and District - Khagaria.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Vyas Kumar Mishra, Advocate
For the State	:	Mr. Kalyan Shankar, APP
For Opp. Party No. 2	:	Ms. Deepika Sharma, Advocate
		Mr. Rajat Kumar Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 30-03-2022 Heard learned counsel for the parties.

Learned counsel for the petitioner is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

This application for anticipatory bail arises out of
Mahila P.S. Case No. 16 of 2021 for the offence punishable
under Sections 498-A and 494 of the Indian Penal Code and
under Section 3/4 of the Dowry Prohibition Act.

It has been contended by learned counsel for the
petitioner that the petitioner was not legally married to opposite
party no.2. He was abducted and thereafter forcibly married



with opposite party no.2 which is not a marriage in the eye of law. It has also been submitted by learned counsel for the petitioner that the father of the petitioner had approached the local police for registration of the F.I.R. but no F.I.R. was registered by the local police and a *Sanaha* has been filed much before the present F.I.R. It has also been submitted that during investigation materials have come including the statement of independent witnesses in support of the fact that there is no legal and valid marriage between the parties.

Ms. Deepika Sharma, learned counsel for the opposite party no.2 submits that opposite party no.2 was legally married wife of the petitioner and the petitioner side has not filed any F.I.R. with regard to the alleged forcible marriage. She also submits that the petitioner is a constable and has remarried. Some photographs have also been produced by learned counsel for the opposite party no.2.

Learned APP for the State has opposed the prayer for anticipatory bail.

This Court tried for settlement of the dispute between the parties but the parties have not been able to settle their disputes.

Considered the submissions of the parties.



After going through the case dairy and the informatory petition as also the photographs produced by the learned counsel for the opposite party no.2, it becomes clear that the petitioner was abducted and thereafter forcibly married with opposite party no.2, therefore, the petitioner cannot be prosecuted under Section 498-A of the Indian Penal Code when the opposite party no.2 is not legally wedded wife of the petitioner.

Accordingly, this bail application is allowed.

Let the petitioner, above named, in the event of his arrest/surrender within four weeks from today in the Court below, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Khagaria, in connection with Mahila P.S. Case No. 16 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sandeep Kumar, J)

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