

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17343 of 2022

Arising Out of PS. Case No.-773 Year-2021 Thana- FATUA District- Patna

Vikash Kumar, Son Of Late Anil Kumar At Present Posted As Station Master,
Dullurupeta Railway, Chennai Division, District- Nellore, Andhra Pradesh,
Permanent Resident Of Village/ Mohallah- Govindpur Churigali, P.S.- Fatuha,
District- Patna.

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Aprajita
For the Opposite Party/s :	Mr. Nirmal Kumar Sinha
	Mr. Raj Kumar
	Mr. Vijay Kumar

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 26-09-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

The petitioner seeks bail in anticipation of his arrest in
a case registered for the offences punishable under Sections 341,
504, 506, 498A, 34 of the Indian Penal Code and Sections 3, 4
of the Dowry Prohibition Act.

The learned counsel for the informant at the outset
submits that in compliance of the order dated 27.04.2022, the
opinion of the Medical Board has been received and from
perusal of the same, it manifests that the doctors have opined
that the informant is not suffering from any mental illness
currently. The learned counsel thus submits that when informant



is not a mental patient, then why the petitioner is trying to bring disrepute in the society by alleging that she suffers from mental illness which amounts to torture.

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case being the husband of the informant. It is next submitted that the marriage was solemnized on 06.12.2020, thereafter reception was held on 09.12.2020. It is next submitted that in between the marriage and the reception, the petitioner felt some awkward behaviour of the informant. Thereafter, on 12.12.2020, the informant left her matrimonial home and went to her parental home.

The learned counsel next submits that on 18.01.2021, he filed an application before the learned Principal Judge, Family Court, Patna under Section 12 of the Hindu Marriage Act seeking a decree to declare the marriage of the petitioner with the informant as nullity on the ground that she suffers from mental illness based on the ground mentioned in the said application. The learned counsel next submits that the informant on 05.03.2021 has appeared before the learned Family Court and is contesting the case. The learned counsel next submits that as far as mental illness is concerned, it may be a possibility that



for some time, the illness is not there or it is not a permanent illness and temporarily the person suffers. It is next submitted that since the ground on which he is seeking to get the marriage declared a nullity is based on the ground that the informant is suffering from mental illness, as such, the matter shall be adjudicated by the Court of competent jurisdiction in a duly constituted trial. It is also submitted that as far as the report of the doctors is concerned, the same is merely an opinion of the doctor in terms of Section 45 of the Evidence Act. It is thus submitted that merely on the opinion of the doctors, presently it cannot be presumed or held with certainty that the informant is not suffering from any mental illness as issue is still to be adjudicated in a full-fledged trial.

At this stage, the learned counsel for the parties seeks a short adjournment for taking instruction from their respective clients. The learned counsel for the petitioner based on instruction submits that till adjudication of the case which he has filed before the learned Family Court, Patna or any maintenance case which may be filed by the informant, the petitioner, till then, is willing to pay Rs.12,500/- by way of monthly maintenance. It is also submitted that the said maintenance would be subject to the maintenance fixed by any



Court of competent jurisdiction.

The learned counsel for the informant based on instruction submits that informant also does not object the offer given by the petitioner and she willingly accepts.

At this stage, the learned counsel for the informant submits that he will whatsapp the bank account number of the informant to the learned counsel for the petitioner, so that the monthly maintenance amount is credited by the petitioner in the account of the informant, as agreed by the petitioner. The learned counsel for the petitioner submits that the monthly maintenance amount as agreed will commence from the month of October, 2022 and the amount shall be credited in the account of the informant in between 1st to 20th of every month commencing from October, 2022, till the maintenance amount is not fixed by a Court of competent jurisdiction or till the present case is not adjudicated by the learned trial Court, whichever is earlier.

The learned counsel for the informant submits that he will furnish the bank account number of the informant expeditiously.

Considering the submissions made by the learned counsel for the petitioner, the petitioner, above-named, in the



event of his arrest or surrender before the learned Court below within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with Fatuha P. S. Case No.773 of 2021, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

Further, in the event, the informant files an application before the learned trial Court bringing to its notice that the petitioner as agreed has not paid the monthly maintenance consecutively for two months, then the learned trial Court shall be at liberty to cancel the bail bonds of the petitioner by a reasoned order, after hearing the petitioner.

The application stands allowed.

(Satyavrat Verma, J)

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