

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18173 of 2022

Arising Out of PS. Case No.-69 Year-2021 Thana- MAHILA P.S. District- Patna

MD. FAIZAN S/o Late Md. Zubair R/o- T/21/9A Alimuddin Street, Park Street, P.S.- Parkstreet, District- Kolkata, West Bengal.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. SADAF PARWEEN W/o Md. Faizhan R/o New Milat Colony, Sector 2 near Church, P.S.- Phulwarishariff, District- Patna, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Ms. Nivedita Nirvikar, Senior Advocate Mr. Subodh Kumar Barnwal, Advocate
For the State	:	Mr. Madan Kumar, APP
For the Informant	:	Ms. Swastika, Advocate Mr. Rajesh Kumar Sharma, Advocate

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 13-12-2022 Heard Ms. Nivedita Nirvikar, learned Senior Counsel assisted by Mr. Subodh Kumar Barnwal for the petitioner, learned APP for the State as well as learned counsel appearing on behalf of the informant.

The petitioner apprehends his arrest in connection with Mahila P.S. Case No.69 of 2021, registered for the offences punishable under Sections 341, 323, 498A, 313, 504 and 34 of the Indian Penal Code as well as Sections 67 and 67(B) of the I.T. Act.

The prosecution case, in brief, is that according to the written report of the informant, her marriage was solemnized



with the petitioner according to Muslim rites and custom on 10.11.2019. It is alleged that at the time of Nikah, her family members had given gold and silver worth Rs.5,00,000/- (rupees five lakhs), other household articles and cash of Rs.5,00,000/- (rupees five lakhs). It is further alleged that her mother-in-law and sister-in-law alongwith the petitioner demanded dowry and due to non-fulfillment of dowry, they assaulted and abused her. It is also alleged that on 05.01.2020, the petitioner alongwith the family members assaulted her and when the informant told that she is pregnant, the petitioner hit her on her stomach with his leg due to which miscarriage was caused. Thereafter she was forcefully sent to her mother's place and again when informant went to her petitioner's place in Kolkata, she was again assaulted. It has further been alleged that fake I.D. was created in the Facebook and uploaded. It is further alleged that all the jewelleries were taken away by in-laws.

Learned Senior Counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. The petitioner has got no criminal antecedent as stated in paragraph-3 of the bail application. It is further submitted that during investigation, no material has come against the petitioner. It is submitted that the petitioner never



demanded any dowry, nor tortured the informant physically or mentally and did not throw her out from her matrimonial home. It is submitted that the informant demanded Rs.10,00,000/- (rupees ten lakhs) from the petitioner and when the petitioner did not fulfill her demand, she threatened the petitioner to implicate him and his family members in a false case. It is further submitted that the hospital, namely, Manokamna Critical Care & Emergency Hospital, which issued certificate is not a registered hospital. The name of the doctor who treated the informant is not given on the certificate, therefore, the petitioner wrote an application in this regard to the Health Secretary, Government of Bihar, Patna (Annexure-4 of the bail petition).

Learned Additional Public Prosecutor for the State as well as learned counsel appearing on behalf of the informant opposed the prayer for anticipatory bail of the petitioner by submitting that there is ample evidence against the petitioner in the case diary. Learned counsel for the informant submits that the petitioner has used his own e-mail I.D. and mobile number for creating the Facebook account of the informant. It is submitted that the petitioner assaulted the informant due to which miscarriage was caused. The informant was treated in Manokamna Critical Care & Emergency Hospital at Patna in



which it is mentioned that the informant was seen by doctors in OPD session and her D&C procedure done at other side. This bleeding occurred after D&C procedure.

Taking into consideration the rival arguments of the parties and from perusal of the case diary, I am not inclined to enlarge the petitioner on anticipatory bail. Accordingly, the prayer for anticipatory bail of the petitioner is rejected.

(Anjani Kumar Sharan, J)

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