

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31909 of 2021

Arising Out of PS. Case No.-69 Year-2020 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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VIKASH SAH, Son of Ramawtar Sah, Resident of Village - Bhelahi, P.S.-
Palanwa, Dist.- East Champaran.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Nitu Devi W/o Vikash Sah, D/O- Bhola Sah Resident of Village - Kanana
Dumariya, P.S.- Raxual, Dist.- East Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Dhannjay Kumar No 2
For the State	:	Mr. Sanjay Kumar Pandey, APP
For the O.P. No.2	:	Mr.Sunil Kumar No.3

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 24-01-2022 Heard learned Counsel for the petitioner and learned

Additional Public Prosecutor for the State, through Video

Conferencing.

This application, for grant of anticipatory bail,
arises out of Complaint Case No. C-69/20 (Trial No.1902 of
2020), disclosing offences under Sections 498(A), 323 of the
Indian Penal Code.

The learned Counsel for the petitioner has
submitted that he has filed a Divorce Case before the present
prosecution and, therefore, he is entitled to anticipatory bail.

It is submitted by learned counsel for the O.P. No.2
that a Maintenance Case No.78 of 2020 has been filed and is



pending in the Court of Principal Judge, Family Court, at Motihari. It is also submitted that the Maintenance case is not being disposed of because of non-appearing of the petitioner.

The learned counsel for the petitioner has submitted that the petitioner has filed a Divorce case bearing Matrimonial (Divorce) Case No. 468 of 2019 which is also pending in the same Court. The petitioner has also submitted that both cases is also pending in the same Court and it may also be directed to dispose of at the earliest.

Considering the fact that there are allegations and counter allegations made by both the parties against each other which cannot be decided in the present anticipatory bail petition, the application for anticipatory bail is allowed.

Let the petitioner, named above, in the event of his arrest or surrender before the Court below within four weeks, 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 learned Chief Judicial Magistrate, East Champaran at Motihari, in connection with Complaint Case No. C-69/20 (Trial No.1902 of 2020), subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure

The petitioner is directed to appear in the aforesaid



maintenance case on 2nd of February, 2022 and the Principal Judge, Family Court, East Champaran at Motihari fixed the date for hearing and decide the Maintenance case within a period of four months from today without granting of unnecessary adjournment to either side.

In case the petitioner or the Opposite Party No.2 do not cooperate in the Maintenance Case, the Maintenance will proceed ex.-parte against the defaulting party.

While deciding the Maintenance case, the Principal Judge kept in mind the law laid down by the Apex Court in the case of **Rajnish Vs. Neha (2021) 2 SCC 324**.

The Principal Judge, Family Court, East Champaran at Motihari is directed to proceed with the Divorce Case also and hear the same on the same date when the Maintenance case is heard and the Principal Judge is further directed to dispose of the same Divorce Case within next six months.

With the aforesaid observations and directions, this application is allowed.

(Sandeep Kumar, J)

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