

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47922 of 2021

Arising Out of PS. Case No.-146 Year-2017 Thana- COMPLAINT CASE District- Banka

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Sujeet Kumar, Son of Raju Sah, Resident of Mohalla- Manskamna Chowk,
P.S.- Nathnagar, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bobi Kumari, W/o Sujeet Kumar, Daughter of Anant Sah, Resident of Village + P.S.- Katoriya, District- Banka.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Ranjan Kumar Jha, Advocate
For the Opposite Party/s :	Mr. Tapeswar Sharma, APP
For the Opp. Party no.2 :	Mr. Brijnandan Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 23-06-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Ranjan Kumar Jha, learned counsel for the petitioner and Mr. Brijnandan Prasad, learned counsel for opposite party no.2 as well as learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Complaint Case No. 146 of 2017 for the offences punishable under Sections 498(A)/323/504 of the Indian Penal Code.

The case of the complainant is that her marriage was solemnized on 29.06.2016 under the Hindu Customs and



thereafter when she came at her Sasural, she spent conjugal life peacefully for about one month. Thereafter the petitioner and all the family members started demanding dowry. It is further alleged that on 22.08.2016 her husband (petitioner) brought her at her maternal house and thereafter he never taken her to the Sasural.

It is submitted by the learned counsel appearing on behalf of the petitioner that the petitioner has never married to opposite party no.2 and in fact the marriage of opposite party no.2 had solemnized to one Amarkant Sah, way back in the year 2013 and in support of the aforesaid contention he has brought Annexure-2, the affidavit duly authorized and sworn by the complainant and one Amarkant Sah. It is further submitted that when the petitioner came to know that on a false affidavit the complainant claiming herself to be legally wedded wife, he filed an application under Section 12 of the Hindu Marriage Act before the learned Principal Judge, Bhagalpur on 26.08.2016 and when the notice was served upon the complainant, the present complaint case has been filed. It is further submitted that the very factum of marriage is under challenge and therefore the offence under Section 498A is not applicable in this case and moreover this petitioner is in custody since 05.06.2021. It has



also been informed to this Court that vide order dated 28.10.2021, the petitioner has been enlarged on provisional bail for a period of six months and after completion of the aforesaid period the petitioner himself surrendered on 05.05.2022 and since then he is in custody. In support of the aforesaid contention, a supplementary affidavit has been filed and the same is kept on record.

On the other hand, learned counsel for the complainant submits that since the present matter relates to a matrimonial dispute, which can be duly resolved through Mediation or by any alternative dispute redressal forum. He also submits that the learned court below has taken cognizance for the offence under Section 498A of the Indian Penal Code and issued summons against the petitioner.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that the very factum of the marriage is in dispute and moreover the petitioner has already filed an application under Section 12 of the Hindu Marriage Act, apart from the fact that this petitioner has already remained in custody for about six months, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the



like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Banka in connection with Complaint Case No. 146 of 2017 subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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