

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57173 of 2021

Arising Out of PS. Case No.-234 Year-2021 Thana- TARAIIYA District- Saran

Sunil Prasad Mahato @ Sunil Prasad Mahto, S/O Shankar Mahto @ Shankar Prasad Mahto, R/O Village-Dumari Chhapiya, P.S.-TARAIIYA, District-Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Aishwarya Mishra, w/o Sunil Mahto, Village-Dumari Chhapiya, P. S. Taraiya, District- Saran at Chapra. Presently residing at -299, Kalyani Devi, Civil Line, Netuwa Mauza-Kanpur Shuklaganj, P. S.- Gangaghat, District-Unnaw (U.P.)

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Ram Binod Singh
For the Opposite Party/s :	Mr. Bharat Bhushan
	Mr. Raj Kumar
	Mr. Vijay Kumar

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

7 19-12-2022 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 376, 341, 323/ 34 of the Indian Penal Code.

The learned counsel for the petitioner disputes the marriage and submits that the informant got divorced from her first husband in the Year 2021 and she is claiming that she got married with the petitioner in the Year 2019, as such, the marriage is void as a legal marriage in accordance with Hindu Law cannot take place during subsistence of a marriage from before.

The learned counsel for the informant submits that the

same will be contested in an appropriate proceeding, but the child has been born from the relationship in which the petitioner and the informant entered.

The learned counsel for the petitioner at this stage submits that he rebuts the said submissions, but then, since the matter is still to be adjudicated by a Court of competent jurisdiction, as such, he is willing to pay an amount of Rs.12,500/- (Rs. Twelve Thousand Five Hundred) towards maintenance of the child and in the event, if the marriage of the petitioner with the informant is proved by a Court of Competent Jurisdiction, then he will abide by the decision of the Court, but presently, since he is disputing his marriage with the informant and submits that he is also legally and validly married to one Mala Mahto since 2014, as such, he could not have performed the second marriage without seeking divorce. The learned counsel for the petitioner at this stage submits that he will start paying the maintenance from the month of December, 2022 itself.

Be that as it may, since the learned counsel for the informant submits that he has instructions to accept the offer of the petitioner, as such, 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. 10,000/- (Rupees Ten 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 Taraiya P.

S. Case No.234 of 2021, subject to the conditions laid down under
Section 438(2) of the Cr.P.C.

The application stands allowed.

However, the learned counsel for the informant at this stage submits that he will whats-app the bank account number of the informant to the learned counsel for the petitioner. The learned counsel for the petitioner submits that the moment he will receive the bank account number of the informant, he will whats-app the same to the petitioner and the moment petitioner will receive the bank the account number of the informant, he will start paying the maintenance amount as agreed. Further, in the event, if the informant files an application before the learned trial Court bringing to its notice that petitioner despite agreeing before this Court for paying maintenance of Rs.12,500/- to the child has not paid the maintenance amount for two consecutive months, the learned trial Court shall be at liberty to cancel the bail bonds the petitioner after giving him an opportunity of hearing.

(Satyavrat Verma, J)

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