

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64816 of 2021**

Arising Out of PS. Case No.-328 Year-2019 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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NISHIKANT CHOUDHARY @ NISHIKANT RAJ CHAUDHRY @ NISHIKANT CHOUDHARY Son of Late Prof. Vijay Kant Choudhary Resident of Village - Bijhraul, P.S.- Tisiauta, District - Vaishali at Hajipur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anupam Kumari Wife of Niskikant Raj Choudhary Daughter of Sri Anil Kumar, At present residing at village Sihma, Post Office - Sihma, P.S.- Matihani, District - Begusarai, Bihar, Pin - 851129, Mob. No.- 8521190440.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pushkar Narayan Sahi, Sr. Adv.

Mr. Mritunjay Kumar, Adv.

For the Opposite Party/s : Mr. Mithlesh Kumar Khare, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

3 25-04-2022 Heard learned senior counsel for the petitioner and learned counsel for the informant as well as the learned A.P.P. for the State.

The petitioner seeks bail in a case registered for the offence under Sections 323, 341, 498(A) of the Indian Penal Code.

The complainant/ O.P. No.2 is subjected to assault and torture on account of non-fulfillment of demand of dowry by the petitioner.

Learned senior counsel appearing for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that the petitioner happens to be unfortunate husband of the complainant/wife and



is in incarceration since 19.07.2021 only for the fault that he has performed marriage with the complainant and remained with her for the very short span of time of less than a year. He further submits that the petitioner and the complainant- O.P. No. 2 have performed marriage on 01.07.2016 but soon after the petitioner has filed Matrimonial Case No. 175 of 2017 for dissolution of marriage on 23.06.2017 within one year of his marriage with the O.P. No.2 and thereafter O.P. No.-2 has also filed a Matrimonial Case No.115 of 2018 on 26.11.2018 and after being impatient, the O.P. No. 2 has filed the Complaint Case No. 328 of 2019/ 328C of 2019 for which the petitioner is before this Court. Not only that several cases have also been filed side by side in the background of the matrimonial case filed by the petitioner. He further submits that the multiplicity of proceedings in the case at hands between the parties is nothing but a gross abuse of process of law. He further submits that the petitioner including her mother and brother have been implicated in several cases by the complainant and her family members just to harass them. No occurrence as alleged in the complaint has ever taken place rather the O.P. No. 2 has her own *malafide* intention ditch the petitioner and she along with her family members are in habit of implicating the petitioner along with his family members in false and frivolous cases. Hence, he submits that the petitioner may be granted the privilege of bail.



Learned counsel for the informant along with learned A.P.P. for the State has, vehemently, opposed the prayer for bail of the petitioner and submits that complainant is legally wedded wife of the petitioner and she has not been provided even a single farthing by the petitioner for her livelihood by way of maintenance. He also submits that he would have no objection if the petitioner would be released on bail, but the rights of complainant/O.P. No.2 may be taken in to consideration and the same may be protected as she is left with option but to be dependent on the petitioner-husband. He further submits that the petitioner carries three more cases other than the present one.

Considering the facts and circumstances of the case and the rival submission of the parties, let the, above named, petitioner 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 Court below where the case is pending in connection with Complaint Case No. 328 of 2019/328C of 2019 with the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.



(2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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