

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66901 of 2021

Arising Out of PS. Case No.-221 Year-2021 Thana- SAUR BAZAR District- Saharsa

CHANDAN KUMAR Son of Lakshmi Yadav Resident of Village -
Bhagwanpur Ward No.1, P.S.- Sour Bazar, Distt.- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Chaniya Kumari D/o Bishundeo Yadav Resident of Village - Kavilashi Ward
no.03, Chandour, P.s.- Sour Bazar, Distt.- Saharsa.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Chandra Mohan Jha, Advocate
For the Opposite Party/s	:	Mr. Bishweshwar Ram, APP
For the Informant	:	Mr. Shashidhar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 19-07-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 498(A) and 494 of the Indian Penal Code read with Sections 3 and 4 of the Dowry Prohibition Act.

Learned counsel for the petitioner submits that the petitioner has antecedent of two cases which arises from complaint case, and the informant alleges that petitioner on the pretext of marriage established physical relationship with her and was visiting her house for the last five years, it is next alleged that on 04.04.2021 at about 10.00 P.M., the petitioner



came to her house and both solemnized marriage, it is next alleged that on 09.04.2021, the petitioner went to his house and after that he started demanding Rs. 10 lakh and one motorcycle, it is further alleged that the father of the informant had given her Rs. 5 lakh for keeping but when the petitioner after marriage was going back to his house the informant had given him Rs. 4 lakh, it is next alleged that since the father of the informant was not in a position to fulfill the dowry demand of the petitioner, as such the petitioner solemnized second marriage with one Kanaksheela Kumari.

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, it is next submitted that father of the petitioner and the informant were friends and as such the family was known to each other, it is next submitted that father of the informant wanted his daughter to get married to the petitioner but the petitioner was not willing as such the present false case came to be instituted. From perusal of the allegation as alleged in the FIR it would manifest that the informant alleges that on 04.04.2021, the petitioner had come to her house when they secretly married each other, but the learned counsel for the petitioner draws the attention of the Court to Annexure-2 to the anticipatory bail



application to submit that petitioner and Kanaksheela had married on 25.03.2021 which is evident from the marriage certificate issued by the temple and presently she is in advance stage of pregnancy. Learned counsel next submits that it absolutely does not stand to reason that if the petitioner and the informant would have performed marriage even secretly in the house of the informant itself then definitely the said fact would have come to the notice of the parents of the informant including the parents of the petitioner, but from the statement recorded during the course of investigation of the independent witnesses, it would manifest that though they say that the family was known but they are also hearsay witnesses with respect to performance of marriage between the petitioner and the informant, it is next submitted that even the family members of the informant have supported the case of the prosecution by stating before the police that on 04.04.2021, the petitioner and the informant performed their marriage, but the learned counsel submits that it absolutely defies all logic, wisdom and reasonable human behaviour that if what is being alleged by the informant is correct and the family members were knowing that the petitioner and the informant have performed marriage in the house of the informant itself then definitely some pictures or



photographs of the ceremony would have been there, it is thus submitted that merely because the petitioner was not interested in marrying the informant despite the family being known to each other and his marriage with Kanaksheela perturbed the informant which led to the filing of the present false case.

Learned counsel for the petitioner submits that a photograph has been annexed along with the counter affidavit filed on behalf of the informant wherein Annexure 'A' and 'B' have been annexed to show that before marriage there was an agreement between the parties and from the side of the petitioner and from the side of the informant the said agreement was signed, it is next submitted that there is also a photograph of the informant posing as if she was garlanding the petitioner but from perusal of the said photograph it would clearly manifest that it cannot be even remotely suggested that the same in any way conveys even a remote impression that it was of a marriage ceremony as the informant is not wearing bridal dress rather it appears that since the petitioner was getting married to Kanaksheela as such the informant was garlanding him since the family was known to each other, it is next submitted that this also further fortifies the fact that the marriage between the petitioner and the informant never took place. It is submitted



that in the FIR it is alleged that the informant and the petitioner married each other in the house of the informant itself, since the marriage was performed in the house of the informant as such the parents and the brother must have been present at the place of occurrence but since no photograph of the occasion is there nor brought on record by counter-affidavit, this amply demonstrates the falsity of the allegation.

The learned APP for the State and the learned counsel for the informant oppose the anticipatory bail application of the petitioner but are not in a position to rebut the submissions of the learned counsel for the petitioner that if the marriage had taken place between the informant and the petitioner in the house of the informant then why no photograph of the marriage was taken, further if the marriage had taken place where was the occasion for any agreement between the parties before the marriage as it has been annexed by way of Annexure 'A' to the counter-affidavit.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds 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/successor court in connection with Sour Bazar P.S. Case No. 221 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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