

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70555 of 2021

Arising Out of PS. Case No.-48 Year-2019 Thana- MAHILA P.S. District- Madhubani

UDAY KUMAR SAH Son of Naresh Prasad Sah Resident of Katihar Baniya Tola, Durgapur, P.S. and District - Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. PRERNA SAH Daughter of Binod Kumar Sah Resident of Village - Shishwar, Kalapatti, P.S. - Phulparas, District - Madhubani.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Mishra, Advocate

For the Opposite Party/s : Mr. Ravindra Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 11-10-2022 Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 323, 341, 498A and 34 of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act.

The learned counsel for the petitioner at the outset submits that he had already filed a divorce case in the Court of learned Principal Judge family Court Katihar, in which despite issuance of notice and paper publication the informant herein did not appear and as such the learned Family Court by order and judgment dated 02.04.2019 was pleased to grant ex-parte



divorce to the petitioner. Learned counsel thus submits that since divorce has been granted to the petitioner in accordance with law as such there is absolutely no chance even remotely for reaching an amicable settlement as the informant has already challenged the ex-parte order before this Court in M.A. No. 249 of 2020.

Learned counsel for the informant submits that the informant never received the notice nor she was aware that any paper publication was made, it is also submitted that the order granting divorce is ex-parte against which the informant is pursuing her remedy as available in law, it is next submitted that no doubt petitioner has obtained an ex-parte order of divorce but then petitioner also has a child who is presently staying with the informant, it is thus submitted that petitioner has a duty to maintain the child.

On which the learned counsel for the petitioner submits that he had already taken instruction from the petitioner on this issue and the petitioner is ready to maintain the child with dignity, it is also submitted that petitioner is willing to pay an amount of Rs. 10,000/- by way of monthly maintenance to the child in accordance with law. Learned counsel further submits that the present maintenance would be subject to any



order passed by the learned Family Court Madhubani in Maintenance Case No. 161 of 2019 filed by the informant, it is next submitted that once the Court of competent jurisdiction passes an order granting maintenance to the informant and the child, the present maintenance of the child as agreed will be stopped.

Learned counsel for the informant sought a short time for seeking instructions from the informant, when the matter is again taken up, learned counsel for the informant submits that informant for the present is willing and has accepted the offer by the petitioner subject to what will be decided by the Court of competent jurisdiction. Since the petitioner for the present has agreed to pay maintenance to the child, hence the informant shall furnish her Bank account number in the learned Trial Court and once the Bank account number is furnished the petitioner shall start depositing Rs. 10,000/- in the account which will commence from November 2022 and thereafter the petitioner has to pay the amount by 15th of every month from December 2022, till the case is not decided by a Court of competent jurisdiction as aforesaid.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.



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 trial court 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 trial court where the case is pending/successor court in connection with Madhubani Mahila P.S. Case No. 48 of 2019 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Further, in the event, if the petitioner for two consecutive months does not deposit the amount in the account of the informant as agreed and the informant file an application seeking cancellation of bail bonds of the petitioner, the learned Trial Court shall cancel the bail bonds of the petitioner after recording reasons.

(Satyavrat Verma, J)

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