

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72228 of 2021**

Arising Out of PS. Case No.-30 Year-2020 Thana- HUSSAINGANJ District- Siwan

Naushad Ali @ Naushad Alam Son of Late Mehadi Hasan @ Late Mehadi Hussain, resident of Kachi Line, Lakhighat, Titagarh, Titagarh (M), Titagarh, North 24 Parganas, West Bengal, 700119.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amit Kumar, Advocate
Mr. Kumar Shanu, Advocate
For the Opposite Party/s : Mr. Shantanu Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER**

2 08-07-2022 This application has been listed under the heading
“For Orders”.

Registry has pointed out several defects in the present application.

Mr. Amit Kumar, learned counsel for the petitioner submitted that the defects are mainly because only e-filing of the applications are permitted by the Court. He submitted that the defects can be removed only after filing of hard copy is permitted. He undertook that even if the applications are heard and disposed of on merit, in due course of time, when the Court would permit filing of hard copy, the defects pointed out by the



registry would be removed.

In view of the submissions made by the learned counsel for the petitioner, with consent of the parties, the application has been taken up for hearing on merit.

In the present application preferred under Section 438 of the Code of Criminal Procedure, the petitioner has prayed for grant of pre-arrest bail in connection with Hussainganj (M.H. Nagar) P.S. Case No.30 of 2020 registered for the offences punishable under Sections 313, 506, 324, 308 and 420/34 of the Indian Penal Code.

The prosecution case is based on a complaint wherein the complainant alleged that she was married to Akhtar Ali on 02.07.2017. Only after 15 days of her marriage Akhtar Ali married another lady Sana Khatoon. Thereafter, the accused persons conspired together and threw her out from her matrimonial home for which a complaint was instituted in the court of Sub-divisional Judicial Magistrate. Subsequently, an effort was made to resolve the dispute through *panchayati* in which the arbitrators took a decision that the complainant and her husband should live together. Thus, the complainant started living together with her husband Akhtar Ali since 30.04.2019. She became pregnant. On 13.08.2019, at about 4 p.m., the



accused persons threatened her to withdraw the complaint. When the complainant forbade them from putting pressure, Sana Khatoon misbehaved with her and assaulted her in her abdomen. It is further alleged that the petitioner and other accused persons also assaulted her, as a result of which she suffered miscarriage. She was taken to the doctor and somehow her life could be saved.

The said complaint was referred to the police by the learned Jurisdictional Magistrate in exercise of power conferred under Section 156(3) of the Code of Criminal Procedure for investigation pursuant to which the first information report was registered on 16.02.2020.

Learned counsel for the petitioner submitted that the petitioner is the brother-in-law of the complainant. He has nothing to do with the day-to-day affairs of the complainant and her husband. Though the alleged occurrence took place on 13.08.2019, the complaint was filed before the court after an undue delay of over 50 days on 03.10.2019. He contended that there is no plausible explanation for the undue delay caused in the institution of FIR. Learned counsel for the petitioner has drawn my attention towards the medical reports of the complaint which is part of the FIR. He submitted that the



impression given on the whole abdominal scan of the complaint by the consultant doctor was that the miscarriage occurred due to cervicitis. He submitted that cervicitis is an inflammation of the cervicit. It may cause bleeding due to several reasons. It can develop from both infectious and non-infectious causes. He contended that the name of the petitioner has unnecessarily been dragged in the case as he happens to be younger brother of the husband of the complainant.

Opposing the prayer for grant of pre-arrest bail to the petitioner, learned counsel for the State submitted that there is specific allegation in the complaint that the petitioner had also participated in the assault upon the complainant which caused miscarriage.

Considering the delay of over 50 days caused in lodging the complaint as also that the petitioner is younger brother of the husband of the complainant and the medical opinion of the consultant, I am inclined to grant him pre-arrest bail. He is directed to be released on bail in the event of his arrest or surrender before the court below on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of ACJM-IX, Siwan in Hussainganj (M.H. Nagar) P.S. Case No.30 of 2020 subject to



the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J)

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