

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14423 of 2023

Arising Out of PS. Case No.-90 Year-2019 Thana- MAHILA P.S. District- Siwan

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MUKESH @ MUKESH SHAH @ MUKESH SAH Son of Sugriv Sah R/v-
Naya Gaon, P.S.- Siswan (Chainpur O.P.), District- Siwan. At present House
No. 338/15, Gaurav Nagar-2, Near- Chaudhary Baldev School, Prem Nagar-3,
Kirari, Suleman Nagar- Nitharim P.S.- Amar Vihar, District- North West,
Delhi- 11086

... .. Petitioner/s

Versus

1. The State of Bihar
2. RUBI SAH Wife of Mukesh @ Mukesh Shah @ Mukesh Sah, D/o Bigan
Sah At present R/v- Gai Ghat, P.S.- Andar, Dist- Siwan

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Bijay Prakash Singh, Advocate
For the Opposite Party/s	:	Mr. Bharat Lal, APP
For the Complainant	:	Mr. Ramadhar Shekhar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 07-08-2023 Heard learned counsel for the petitioner and learned

A.P.P. for the State along with learned counsel for the

complainant.

The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 498A,
406, 313, 308 and 34 of the Indian Penal Code.

Learned counsel for the petitioner submits that being
husband, the petitioner has been falsely implicated in the present
case, it is next submitted that the relationship between the
petitioner and the complainant has soured to an extent where it
is not possible to revive the conjugal relationship. It is further



submitted that petitioner had a factory, but during lockdown his business got badly affected and now he is working as a salesman. It is also submitted that an application under Section 13-B of the Hindu Marriage Act, 1955 has been filed before the learned Principal Judge, Family Court, Rohini.

Learned APP for the State along with learned counsel for the complainant rebuts the submission of the learned counsel for the petitioner and submits that the complainant was completely unaware that she has signed a document relating to a petition under Section 13-B of the Hindu Marriage Act. It is next submitted that the complainant has resiled and thus has not given consent for divorce by mutual consent. Learned counsel for the complainant further submits that out of the wedlock two children were born aged about 14 years and 10 years and they are presently staying with the complainant. It is also submitted that the complainant will not oppose the anticipatory bail application of the petitioner and will contest the divorce case in accordance with law provided the petitioner at least is willing to give a monthly maintenance of Rs. 15,000/- for maintaining the complainant and her two children, on which the learned counsel for the petitioner submits that petitioner is not in a position to maintain the complainant and her two children.



Since, the petitioner is not in a position to maintain his wife and children, as such, the Court does not feel persuaded to extend the privilege of anticipatory bail to the petitioner.

Accordingly, the present anticipatory bail application stands rejected.

Learned counsel for the complainant, at this stage, submits that petitioner is a person who belongs to a good family and has property in Delhi and Siwan but for reasons best known he is not willing to maintain the complainant and the children who are in nascent phases of their life.

(Satyavrat Verma, J)

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