

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13675 of 2023

Arising Out of PS. Case No.-496 Year-2022 Thana- GAYA KOTWALI District- Gaya

Shadab Hussain S/O Late Mahboob Hussain R/V- Itwan (Piribigha), P.S.-
Mohanpur, District- Gaya. At present R/O Nanhe Khan Lane, Neem Dargah
Gali, Panchaitiya Akhara, P.S.- Kotwali, District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Saima Parween Wife of Shadab Hussain, D/O Late S.M. Gholam Firoz R/O
Mohalla- Balkhi Katra, Ward No.-43, P.S.- Bihar Sharif, District- Nalanda

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Advocate
For the Opposite Party/s : Mr. Chandra Sen Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

- 3 03-10-2023 Heard learned counsel for the petitioner and Mr.
Chandra Sen Prasad, learned APP for the State.

2. The petitioner is apprehending his arrest in connection with Kotwali P.S. Case No. 496 of 2022, F.I.R. dated 16.08.2022 for the offences punishable under Sections 498(A), 504, 506/34 of the Indian Penal Code and Section 3/4 of the D.P. Act.

3. According to prosecution case, due to birth of a female child, all the accused persons including the petitioner abused the informant and also threatened her and demanded Rs. 5 lakhs.

4. Learned counsel for the petitioner submits that



petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offences as alleged in the F.I.R. In fact, the petitioner has filed the suit under Section 281 of Mohammedan law for restitution of conjugal life which is Matrimonial Suit No. 272 of 2022 and thereafter, the petitioner has also filed Informatory Petition No. 2302 of 2022 on 02.08.2022 and after that the present F.I.R was instituted on 16.08.2022 only to harass the petitioner. He further submits that no such occurrence has taken place as alleged in the F.I.R and the petitioner has never demanded any dowry from the family members of the informant.

5. Vide order dated 24.05.2023, the matter was referred to the Mediation Center for settlement of dispute between the parties. Report of the learned Mediator dated 02.08.2023 reveals that the mediation proceeding could not succeed therefore, the mediation proceeding has failed.

6. Learned counsel for the petitioner submits that the present F.I.R has been instituted only to harass the petitioner.

7. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and



submits that the petitioner has solemnized the second marriage.

8. Considering the aforesaid facts and circumstances, let the petitioner, above named, in the event of arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, 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 the learned Chief Judicial Magistrate, Gaya in connection with Kotwali P.S. Case No. 496 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

i. 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. 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.

iii. 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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