

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16640 of 2023

Arising Out of PS. Case No.-581 Year-2015 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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Avinash Kumar Tiwary @ Avinash Kumar S/o Dayashankar Tiwary Resident
of Sikandra Bazar, P.S.-Sikandra, District-Jamui

... .. Petitioner/s

Versus

1. The State of Bihar
2. Asha Devi W/o Avinash Kumar Tiwary @ Avinash Kumar Resident of
Sikandra Bazar, P.S.-Sikandra, District-Jamui at present D/o Vijayaray
Pandey, resident of Nazirpur, P.S. Rahika, District-Madhubani

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Prasad, Advocate
For the Opposite Party/s : Mr. Surendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 18-10-2023 Heard Mr. Umesh Prasad, learned counsel for the
petitioner and Mr. Surendra Kumar, learned APP for the State.

2. Despite of valid service of notice upon the
Opposite Party No. 2, no one appears on behalf of the Opposite
Party No. 2 when the matter is called.

3. The petitioner is apprehending his arrest
connection with C.R. No. 581 of 2015/564 of 2015 dated
11.05.2015 registered for the offences punishable under
Sections 323, 354, 379, 498(A) of the Indian Penal Code and ³/₄
of the Dowry Prohibition Act but the learned Court below took
cognizance under Sections 323, 354, 498(A)/34 of the Indian
Penal Code.



4. Petitioner is the husband of the complainant. Allegation against the petitioner is of demand of dowry and torture for the same.

5. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has been falsely implicated in the present case and the marriage was performed with the complainant on 21.04.2014 and petitioner is always ready to keep the complainant as his wife with full honour and dignity. He further submits that on 01.03.2015 the complainant without the prior permission of the petitioner escaped from the house of the petitioner and she is living in her parental house then the petitioner has filed a Matrimonial Case No. 42 of 2015 for restitution of conjugal rites and when the opposite party no. 2 has knowledge about the aforesaid case she has filed the present complaint case after the Matrimonial Case No. 42 of 2015 and thereafter in the Matrimonial Case No. 42 of 2015 the learned Court of Principal Judge, Family Court, Jamui has passed the order on 18.09.2017 in favour of the petitioner and despite of that she is not living with the petitioner.

6. Learned APP for the State has opposed the prayer for anticipatory bail of the petitioner.

7. Considering the facts and circumstances of the



case, let the petitioner, above named, in the event of his 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/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Madhubani in connection with C.R. No. 581 of 2015/564 of 2015, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions :-

(1) 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.

(2) If the petitioner tampers with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) 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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