

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27705 of 2023

Arising Out of PS. Case No.-396 Year-2022 Thana- AAJAM NAGAR District- Katihar

Md. Abdul Kalam Azad @ Md. Abul Kalam Azad @ Abul Kalam Azad Son
of Md. Ziyaul Haque R/V- Belbari Pokhariya Ps- Azamnagar (Salmari O.P)
Dist- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Adv. Mr. Raghvendra Kumar Singh, Adv.
For the Informant/s	:	Mr. Bijay Kumar Pandey, Adv.
For the State	:	Mr. Abdul Wadood, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 06-06-2023 Let the defect(s), if any, be removed within two weeks
from today.

2. Heard learned counsel for the petitioner and learned
A.P.P. for the State.

3. The petitioner seeks regular bail in connection with
Azamnagar (Salmari O.P.) P.S. Case No. 396 of 2022 lodged
under Sections 341, 323, 379, 498(A), 506/ 34 of the I.P.C. read
with Section 3/4 of D.P. Act.

4. As per the prosecution case, the F.I.R. has been
lodged against eight named accused persons including the
present petitioner shown himself as husband.

5. Learned senior counsel for the petitioner submits

that the petitioner and informant were detached since year 2018 and in this regard, they have prepared an affidavit. Counsel further submits that by virtue of Notary Public, another affidavit has been created in the year 2021 in which the informant states that the marriage continued.

6. Learned senior counsel for the petitioner submits that the said affidavit which is Annexure-3 is basically a forged and fabricated document and he is not accepting the same. Counsel submits that the petitioner is not accepting the informant as wife, particularly, after Annexure-2.

7. Learned senior counsel for the petitioner upon the specific query of this Court about the legal status of Annexure-2, answers that this Annexure-2 has never been placed by the informant and there is a suppression made by the informant.

8. Learned counsel for the State opposes the prayer for bail.

9. Learned counsel for the informant appeared in this case and submits that informant is ready to live with petitioner and he requests that matter may be referred for mediation, so that the dispute between the parties can be resolved.

10. In the present facts and circumstances of this case and the submissions made above, particularly, when the informant is relying on Annexure-3, affidavit of year 2021 and the petitioner is relying on Annexure-2 about which there is no denial from informant. It is a disputed question that whether the marriage of the petitioner and the informant are in existence or not and that can be decided only by the Court of competent jurisdiction.

11. Therefore, this Court is inclined to grant bail to the petitioner on furnishing bail bonds of Rs.30,000/- (Rupees Thirty Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Katihar in connection with Azamnagar (Salmari O.P.) P.S. Case No. 396 of 2022, subject to the conditions as laid down under Section 437(3) of Cr.P.C.

12. With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

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