

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37769 of 2022

Arising Out of PS. Case No.-57 Year-2012 Thana- COMPLAINT CASE District- Sheohar

Md. Shamshad Son Of Md. Wahab R/O Village- Rampur, P.S.- Tariyani,
District- Sheohar, At Present Resident Of D-Block, Room No.-712, Babana,
J.J. Colony, Delhi- 39

... .. Petitioner/s

Versus

1. The State of Bihar
2. Asmina Khatoon Wife Of Md. Shamshad R/O Village- Rampur, P.S.-
Tariyani, District- Sheohar At Present D/O Md. Nawab Village- Rampur,
P.S.- Tariyani, District- Sheohar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nasim Yahya
For the Opposite Party/s : Mr. Rabindra Kumar

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

4 14-02-2023 Heard Ld. counsel for the petitioner and Ld. APP
for the State.

The petitioner seeks bail in connection with C.R.
No. 57 of 2012, registered for the offences punishable under
Sections 323, 379 and 498(A) of the Indian Penal Code and
Section 3/4 of the Dowry Prohibition Act.

The prosecution case as emerging from the FIR is
that the complainant got married to the petitioner on
09.08.2010 at Delhi according to Muslim customs and rites.
Later on, the petitioner and his family members started
torturing her for non-fulfillment of illegal demand of dowry.



Ld. counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that the petitioner has already been in jail for eight months and vide order dated 28.09.2022, the petitioner was enlarged on provisional bail by this Court. It is further pointed out that by the same order, a lump-sum amount of Rs. 50,000/- (Rupees Fifty Thousand Only) was given to her towards maintenance and in terms of the said order of this Court he is also paying Rs. 5,000/- (Rupees Five Thousand Only) per month to the wife-complainant towards her maintenance.

It is also pointed out that by the last order dated 28.09.2022, both the parties were directed to appear before Patna High Court Mediation Centre, Patna. However, mediation process has failed as per report of the both parties.

He is, therefore, praying that he should be enlarged on bail and interim order for maintenance vide order dated 28.09.2022 should be withdrawn and in case the wife requires maintenance, she is free to move Family



Court for the same. However, Ld. counsel for the complainant/wife submits that the maintenance should be continued.

He further submits that the petitioner has been languishing in jail since 17.01.2022.

It has also been stated in paragraph no. 3 of the bail petition that the petitioner has no criminal antecedents.

It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier either for anticipatory bail or regular one.

Considering the aforesaid facts and circumstances, particularly the period of custody already undergone by the petitioner, **this application is allowed**, confirming the provisional bail granted to the petitioner vide order dated 28.09.2022 subject to the following conditions:

(i) The petitioner will make himself available for interrogation by a police officer/court as and when required.

(ii) The petitioner will undertake that investigation/trial will not hamper on account of his absence or non-cooperation. He must be available to the police or the



court whenever his presence is required.

(iii) The petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the petitioner has any criminal antecedents, Ld. court below shall cancel the bail bond of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bond of the petitioner.

Ld. counsel for the petitioner is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office



objections.

The interim order dated 28.09.2022 providing monthly maintenance of Rs. 5,000/- (Rupees Five Thousand Only) to the complainant stands infructuous/withdrawn in view of the disposal of the present petition.

However, the complainant/wife is at liberty to approach Family Court for any matrimonial relief including maintenance if she is so advised.

(Jitendra Kumar, J)

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