

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40288 of 2023

Arising Out of PS. Case No.-436 Year-2018 Thana- PURNIA COMPLAINT CASE District-
Purnia

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MOHAN CHOUDHARY Son of Basudeo Choudhary Resident of village -
Rampur ward no. 4, P.s. - Murliganj, Distt. - Madhepura. At present residing
at B-51 village - Nahar Pur Sector -7 Rohini Delhi - 110035

.. ... Petitioner/s

Versus

1. The State of Bihar
2. Smt. Gita Kumari @ Gita Kumari D/o Ram Chander Choudhary, W/o
Mohan Choudhary Resident of village - Chakla, P.S. - Banmankhi, Distt. -
Purnea

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar, Advocate
For the Opposite Party/s : Mr. Ajit Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 22-08-2023

1. Heard learned counsel for the parties.

2. The petitioner apprehends his arrest in connection
with Complaint Case no. 436 of 2018 in which cognizance was
taken under section 498A of the Indian Penal Code.

3. As per the prosecution case, the allegation in the
complaint is that the marriage took place between the parties in
the year 2008 in which gifts as described in the complaint were
given. Other allegation made in the complaint is with respect to
demand of dowry and the petitioner who happens to be the
husband of the complainant having forcibly
reached the complainant to her parents' place. It
is further stated that the petitioner directed that



she would only be brought back on payment of Rs. 2 lacs.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated only on account of his being the husband of the complainant. It is in fact the petitioner who filed a case for restitution of conjugal rights which was decreed in favour of the petitioner vide judgment dated 3.1.2023 passed in HMA petition no.562242 of 2016 by the Family Court, North West Rohini and the copy of the order has been brought on record as Annexure-3. It is further submitted that the allegation of demand of dowry etc., are all false and incorrect and it was only on the complainant refusing to live with the petitioner that he entered into a second marriage. He has no criminal antecedent.

5. The application for bail is opposed by learned APP for the State and learned counsel for the Opposite Party no. 2.

6. Having heard learned counsel for the parties, it transpires from the material on record that the instant complaint from which the application for bail arises was filed in the year 2018 and the prayer for anticipatory bail is made five years later only in 2023. So far as the decree of restitution of conjugal rights is concerned ie., Annexure 3 the same is an ex-parte judgment obtained by the petitioner.



Taking into consideration the allegations in the complaint together with the delay in filing of the instant application for anticipatory bail, the Court is not inclined to enlarge the petitioner on bail and the application is rejected.

(Partha Sarthy, J)

Prakash/-

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