

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40037 of 2023

Arising Out of PS. Case No.-552 Year-2022 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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Md. Danish Shekh @ Md. Danish Son of Md. Sharif Resident of Village-
Bhanpur, Ps- Babubarhi, District- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. Farhat Saba, Wife of Md. Danish Shekh Resident of Village- Bhanpur, P.S.-
Babubarhi, District- Madhubani

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Md. Soban Asghar, Advocate
For the Opposite Party/s : Mr. Manoj Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 28-07-2023 Heard Md. Soban Asghar, learned counsel appearing
on behalf of the petitioner and Mr. Manoj Kumar, learned APP
appearing on behalf of the State.

2. The petitioner apprehends his arrest in connection
with C.R. No. 552 of 2022 registered under Sections 341, 333,
379, 498(A), 376 and 511 of the Indian Penal Code and Sections
3 and 4 of the Dowry Prohibition Act.

3. As per the allegation made in the complaint, it
appears that both the parties are husband and wife and strained
relationship developed between them due to demand of dowry
and the complainant was kicked out of her matrimonial house. It
is further alleged that father of the petitioner tried to commit
rape upon her.



4. Learned counsel appearing on behalf of the petitioner submits that the petitioner is ready to keep the complainant who is his legally wedded wife with full dignity and honour and to that effect a specific statement has been made in Para-7 of the bail application. He is also ready to provide her all physical and financial requirements.

5. Mr. Shailendra Kumar Jha, learned counsel tendered his appearance on behalf of the informant and submits that complainant is the legally wedded wife of the petitioner and if the petitioner provides her physical as well as financial requirement and keeps her with full dignity and honour, then in that case, she is ready to live along with the petitioner.

6. Considering the nature of allegation made in the complaint as well as the fact that both the parties are ready to live together, petitioner must file a joint affidavit along with the complainant before the Court below within a period of three weeks in which the petitioner must undertake that he will take care of the complainant and will provide her substantial amount of money so that she can lead a dignified life. The petitioner must also make a specific statement that he will also provide her physical needs and keep her with full dignity and honour. In case such affidavit is filed within a period of three weeks, the



court below after accepting the joint affidavit is directed to release the petitioner on bail in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each, to the satisfaction of learned Chief Judicial Magistrate, Madhubani in connection with C.R. No. 552 of 2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

7. This Court grants interim protection to the petitioner for a period of three weeks to enable him to file joint affidavit. In case of failure, this order will automatically loose its force.

8. The Court below must act in a judicious manner and if required, may also refer the matter before the District Mediation Centre.

9. At this stage, learned counsel for the petitioner has emphatically placed reliance on the observation made by the court below in the impugned order and the same is reproduced hereinafter:

“She has further deposed in the Court question that her husband has divorced her and she is unable to live with him and she has filed this case only for returning marriage expenses and Daan Mohar. Learned counsel also submitted that they have sent to mediation centre in the District Legal Service Authority Madhubani but even after two sittings, mediation became fail.”



10. The above statement which has been recorded by the court below is not substantiated by any evidence by the petitioner. Considering the fact that the petitioner is ready to keep the complainant with full dignity and honour and to that effect, specific statement has been made in Paragraph No. 7 of the bail application, the Family Court Act mandates that any court of law must first strive to reconcile the matrimonial dispute between the parties and failure to which the court action is deprecated. The court is directed to act in accordance with Family Court Act and the mandate of law requires that interference of court is required for settlement of matrimonial dispute between the parties in an amicable manner.

11. The bail application, accordingly, stands disposed of.

(Purnendu Singh, J)

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minu/-

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