

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43169 of 2023**

Arising Out of PS. Case No.-1353 Year-2019 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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VARGESH KUMAR @ VARGESH KUMAR SINGH son of Suresh Prasad
Singh Village- Balwa Koari P.S. - Hajipur Sadar, Dist- Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Raushni Kumari wife of Vargesh Kumar Singh, D/o- Akhileshwar Prasad
Singh Village- Beraiee Ps- Sarai Dist- Vaishali

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rana Baljit Singh, Adv.

For the Opposite Party/s : Mr. Sanjay Kumar Sharma, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

3 03-10-2023 Heard Mr. Y.C. Verma, learned senior counsel for

the petitioner and Mr. Sanjay Kumar Sharma, learned A.P.P.

for the State.

The petitioner apprehends his arrest in connection
with Complaint Case No. 1353 of 2019 under Sections
498(A) of the Indian Penal Code and Section 4 of the D.P. Act.

The complainant is subjected to assault and torture
on account of non-fulfillment of demand of dowry at the
instance of the petitioner.

Learned senior counsel appearing for the
petitioner submits that the petitioner, who is of clean
antecedent, is innocent and has falsely been implicated in



this case. He further submits that the allegation, as alleged in the complaint., is false and fabricated and the petitioner has not committed any offence. He further submits that before filing of the present complaint, the petitioner has filed an application being HMA No. 970 of 2019 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights and in reply thereof the complainant has stated at paragraph No. 4 of the reply, which is quoted hereinbelow;

“That the marriage of the respondent and the petitioner has reached to a stage of irretrievable breakdown resulting from reasons explained in the present reply herein below. The petitioner is down with erectile dysfunctions- and impotent; not capable to copulate inter aliahis disturbing behaviour made respondent;s life highly unpleasant and hellish. It was an unfortunate time and a bad experience with the petitioner. his quarrelsome and life threatening instances have gone down to the mind of the respondent which cannot heal and be forgotten.”

In view of the aforesaid, learned senior counsel for the petitioner submits that it is not possible for the



petitioner to lead his conjugal rights with the complainant any more. He further submits that the dispute between the parties has been referred to the Mediation Center for reconciliation between the parties but the complainant herself chosen not to appear before the Mediator, therefore, mediation could not be initiated. Hence, the petitioner deserves the privilege of anticipatory bail.

Learned A.P.P. for the State on the basis of material available on record vehemently opposed the prayer for bail of the petitioner and submits that there is serious allegation of assault and torture for want dowry against the petitioner, who is husband of the complainant.

Considering the facts and circumstances of the case, let the, above named, petitioner be released on bail, in the event of arrest or surrender before the court below within a period of four weeks, on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Hajipur, Vaishali in connection with Complaint Case No. 1353 of 2019, subject to the conditions laid down under Section 438(2) of the Cr.P.C. and also with the 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

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

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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