

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42017 of 2022

Arising Out of PS. Case No.-120 Year-2021 Thana- MANJHI District- Saran

SACHIN KUMAR SINGH Son of Gorakhnath Singh (Constable), Resident of village - Bahuara, P.S. - Dokti, District - Ballia (U.P.)

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Punita Devi Wife of Sachin Kumar Singh Daughter of Bindeswari Singh, Resident of village and Post Officer - Bahuahra, P.S. - Dokti, District - Balliya, Presently residing at village - Kabirpar, P.S. - Manjhi, District - Saran

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Abhinav Shrivastava, Adv. Mr.Parijat Saurav, Adv.
For the Opposite Party/s	:	Mr.Nirmal Kumar Sinha, APP
For the O.P. No. 2	:	Mr.Vijay Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 01-02-2023 Heard learned counsel for the petitioner and the State.

The petitioner apprehends his arrest in connection with Manjhi P.S. Case No. 120 of 2021 instituted under Sections 379, 323, 498A, 34 of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act.

As per the prosecution story, the informant was married to Sachin Kumar Singh who is posted as a Constable in C.R.P.F. in Chhattishgarh. It was alleged that after the marriage, the petitioner and his family members demanded Rs. 5 lakh and a four wheeler car and for not fulfilling their demand, she was regularly tortured. Accordingly, the FIR was lodged.



Learned counsel for the petitioner submits that the allegations made in the FIR are bundle of lies having no element of truth. Further, being a designated Constable in the C.R.P.F. Department placed at highly sensitive area of Chhattisgarh, it is not possible for him to keep his family in such circumstance. Further submission is that keeping family is either not permitted or not viable and/or suitable as he has to live in barracks on sharing basis.

Further, he is maintaining his parents, brother and unmarried sister who are studying and have to save money for the marriage of unmarried sister.

The further submission is that due to frivolous allegation levelled against the petitioner, he is suffering.

Learned counsel for the petitioner further submits that even the said vague and baseless allegations have been made after a long delay and the same has not been explained in the FIR.

Learned counsel for the petitioner in support of his case relied on an order of Delhi High Court in **Anupam Sharma Versus NCT of Delhi and Another (2007) SCC Online Del 1128**.

A perusal of the same would show that in that case,



the question was that while considering the grant of anticipatory bail whether Courts can encourage parties to settle their disputes and in that case, it was held that while dealing with an application seeking bail or anticipatory bail arising out of a matrimonial dispute, the Court indeed can exercise the limited role to encourage settlement between the parties and the para-72 of the said order read as follows :

“72. Of course, the Judge has to be alive to the fact that parties have only to be assisted by the Judge in the form of counselling or ironing out the creases if otherwise major substratum of the dispute is resolved by the parties and certain issues are hampering the finalization of the settlement. Within the afore-noted limited role, while dealing with an application seeking bail or an anticipatory bail, pertaining to a matrimonial dispute, the Court concerned would not be out-stepping its jurisdiction if it plays a pro-active role.”

The said case as such does not come to the petitioner's rescue.



The learned counsel for the petitioner next relied on a case of Hon'ble Supreme Court in **Preeti Gupta and Another Versus State of Jharkhand and Another (2010) 7 SCC 667** where the Hon'ble Apex Court held that the allegations have to be scrutinized with great care and circumspection specially against husband's relative who were living in different cities and never visited or rarely visited the matrimonial home of the complainant.

In this case, the matter relates to the petitioner and not his family members and as such, the said order too does not come to his rescue.

He has next relied on a decision of the Hon'ble Supreme Court in **Biman Chatterjee Versus Sanchita Chatterjee and Another reported in (2004) 3 SCC 388.**

A persual of the same would show that the Hon'ble Apex Court was dealing with a case in which the High Court had cancelled the bail on the ground that the appellant had violated the terms of compromise. The Apex Court held that though in the original order granting bail, there was a reference to an agreement of the parties to have a talk of compromise, no such submission was made in the Court that there will be a compromise that the appellant would take back his wife.



In the considered view of this court even this order does not support his case.

Learned counsel for the informant on the other hand submits that right from the day, the lady married the petitioner on 6.2.2016, she was hardly allowed to live peacefully in her in-laws' house and within 4-5 months, the torture started.

Further, with the support of para-5 of the complaint/FIR, learned counsel for the informant submitted that since the petitioner wanted to marry his sister, he was pressurizing the lady to bring the amount so that the same could be used for the marriage purposes.

By way of para-7, it has also been pointed out that time without number, she had to remain without food and once they also tried to put her on fire by pouring kerosene oil.

The aforesaid allegation that has come in the FIR, specially the allegation that has been made in para-5 that for the marriage of his sister, he was pressurizing the lady to bring dowry as also, they tried to pour kerosene oil and put her on fire as reflects from para-7, the para-5 is in line with the averment made by the counsel for the petitioner that he has to save money for marriage of the unmarried sister.

Considering the allegation that has come against the



petitioner especially that she had to remain without food for days which shows the inhuman character of the petitioner coupled with the fact that once he tried to put her on fire, so far as the anticipatory bail is concerned, certainly this is not a fit case to extend the same to the petitioner herein and the same is accordingly rejected.

(Rajiv Roy, J)

Ajay Singh/-

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