

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47931 of 2023

Arising Out of PS. Case No.-1435 Year-2022 Thana- COMPLAINT CASE District- Banka

Mithlesh Kumar Mandal @ Mithilesh Kumar Mandal, S/O- Ramanand Mandal, Resident of Village- Laskari, PS- Banka, Dist-Banka.

... .. Petitioner

Versus

1. The State of Bihar
2. Sulochana Kumari, D/O- Kanhai Mandal, Resident of Village- Lahoriya PS- Rajaun, Dist- Banka.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Patanjali Rishi, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP
For the O.P. No. 2	:	Mr. Praveen Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 16-10-2023 Heard learned counsel for the petitioner, learned counsel for the complainant and learned APP for the State.

2. The petitioner in the present case is seeking pre-arrest bail in connection with Complaint Case No. 1435 of 2022 registered for the offences punishable under Sections 498A, 406, 379, 323, 504, 506, 341, 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act. He has no criminal antecedent.

3. As per the prosecution story, the complainant got married to the petitioner on 17.05.2022. It is alleged that the petitioner and his family members tortured and ousted her from matrimonial home due to non-fulfilment of demand of dowry.

4. Learned counsel for the petitioner submits that from the materials available on the record, it would appear that the



present case has been lodged only to harass the petitioner. The fact is that the Opposite Party No. 2 is already married to one Vijay Mandal and while her marriage is still in subsistence, she was trying to somehow take the petitioner in her hold to marry her.

5. Learned counsel has taken this Court through Annexure 'P/3' which is a report of the Mahilla Police Station, Banka, copy of which has been made available to the father of the petitioner under Right to Information Act in which it has come that by putting pressure upon the petitioner, the parents of O.P. No. 2 compelled him to enter into a marriage with O.P. No. 2. The fact that O.P. No. 2 was married to someone else was not known to the petitioner and even his parents were not made known about the marriage which was performed allegedly between the petitioner and O.P. No. 2 by putting him under pressure.

6. Learned counsel for the complainant does not dispute that the complainant-O.P. No. 2 was a married lady and so far as her allegation that the petitioner had established physical relationship with her is concerned, it is not disputed that the complainant-O.P. No. 2 even as she was married to someone else had allegedly entered into physical relationship with the petitioner on her own will.

7. Having regard to the facts and circumstances of the case, the kind of dispute and the admitted position that the



complainant-O.P. No. 2 was herself married and had still entered into physical relationship with the petitioner on her own volition which she now claims that she had established relationship on the pretext of marriage, this Court directs that in case of his arrest or surrender within a period of six weeks from today, the petitioner above named be released on bail in connection with Complaint Case No. 1435 of 2022 on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Banka, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

8. 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.

9. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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