

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45906 of 2023

Arising Out of PS. Case No.-165 Year-2022 Thana- BHABHU(KAIMUR) COMPLAIN C
District- Kaimur (Bhabua)

Subhash Ram, Son of Sohan Ram, Resident of Village- Hata, P.O.- Hata ,
P.S.- Chainpur, District- Kaimur At Bhabua Petitioner
Versus

1. The State of Bihar
2. Sarita Devi @ Sarita Kumari, Wife of Subhash Ram, Resident of Village-
Hata, P.O.- Hata , P.S.- Chainpur, District- Kaimur At Bhabua At Present-
Resident of Village- Bahuara, P.O.- Mujan, P.S.- Mohania, District- Kaimur
At Bhabua, Pin Code- 821109
... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Parwej Khan, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP
For the O.P. No. 2	:	Mr. Kumar Sunil, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 06-12-2023 Heard learned counsel for the petitioner, learned
counsel for the O.P. No. 2 and learned APP for the State.

2. The petitioner in the present case is seeking pre-arrest bail in connection with Complaint Case No. 165 of 2022 registered for the offence punishable under Sections 498(A), 323 and 341 of the Indian Penal Code. He has no criminal antecedent.

3. As per the prosecution story, on 29.04.2007 the petitioner was married to the opposite party no. 2-complainant and they have two children aged about thirteen years and ten years from the said wedlock. It is alleged that the petitioner and his family members started torturing the complainant for

fulfilling the demand of Rs.5,00,000/- and one Alto Car and due to non-fulfillment of the same, the opposite party no. 2 has been ousted from her matrimonial house.

4. Earlier, the matter was referred to the mediation center but no amicable resolution could take place and the mediation has failed.

5. Learned counsel for the petitioner submits that the marriage between the parties was solemnized in the year 2007, they have got two children aged about thirteen years and ten years respectively who are living with the petitioner.

6. It is further submitted that the petitioner is in Indian Army and at this stage the allegation of torture and mental cruelty for alleged demand of an Alto Car and Rs.5,00,000/- as dowry is totally false, concocted and baseless.

7. Learned counsel for the petitioner submits that the petitioner has in fact purchased two immovable properties in the name of his wife (opposite party no. 2) and by taking loan he has constructed house thereon but the opposite party no. 2 is not living in the said house.

8. In order to show his bonafides, the petitioner offers to pay a sum of Rs.5,000/- per month to the opposite party no. 2 for the time being subject to result of the maintenance case

which has been brought by opposite party no. 2 in the court of learned Principal Judge, Family Court, Kaimur at Bhabhua. This offer has been made by learned counsel for the petitioner on instruction.

9. Learned counsel for the opposite party no. 2 has though opposed this application but in view of the offer made by the petitioner to provide some financial help to the opposite party no. 2 subject to result of the maintenance case, learned counsel submits that in such circumstance, this Court may take an appropriate view of the matter. He has, however, informed that the petitioner has filed a suit for declaration of title of the immovable property.

10. Having regard to the facts and circumstances of the case, the marriage being more than fifteen years old and the fact that the appearance of the petitioner may be secured in course of trial and further he is ready to show his bonafide by paying a sum of Rs.5,000/- per month for the present to the opposite party no. 2 subject to result of the maintenance case, this Court directs that in case of his arrest or surrender within a period of four weeks from today, the petitioner above named shall be released on bail in connection with Complaint Case No. 165 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 Judicial Magistrate 1st Class, Mohania, Kaimur at Bhabhua, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

11. 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.

12. And further condition that in terms of his own offer to the opposite party no. 2, he will pay Rs.5,000/- per month within first seven days of every month in the bank account of the opposite party no. 2 which will be subject to result of the order which may be passed by the competent court in the maintenance case. The first payment of maintenance shall be made by 10th December, 2023

13. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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