

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47475 of 2023

Arising Out of PS. Case No.-34 Year-2022 Thana- MAHILA P.S. District- Patna

Ujjawal Son Of Sri Devanand Resident Of Ekta Nagar, Khoja Imli Mazar, PS
-Phulwarisharif, District- Patna

... .. Petitioner

Versus

1. The State of Bihar
2. Perna Daughter Of Pramod Kumar Resident Of village- Sumati Niwas,
Vishnupuri, Ps- Gardanibagh, District- Patna

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Krishna Prasad Sinhg, Sr. Advocate Mr. Bhaskar Shankar, Advocate
For the Opposite Party/s	:	Mr. Md. Nazir Ansari, APP
For the Informant	:	Mr. Birendra Kant Chaudhary, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 06-12-2023 Heard Mr. Krishna Prasad Singh, learned Senior counsel assisted by Mr. Bhaskar Shankar, learned counsel for the petitioner, Mr. Birendra Kant Chaudhary, learned counsel for the informant and Mr. Md. Nazir Ansari, learned APP for the State. The Opposite Party No.2 is herself present in the Court.

2. The petitioner in the present case is seeking pre-arrest bail in connection with Mahila P.S. Case No. 34 of 2022 registered for the offences punishable under Sections 498A, 494 and 34 of the Indian Penal Code. He has got no criminal antecedent.

3. As per the prosecution story, on 30.11.2020 the petitioner married the informant at Sri Baba Dineshwar Dham,

Goraiya Asthan, Koilwar, Bhojpur as per Hindu rites. The petitioner was knowing that the informant was earlier married to one Vakil Prasad with whom she has a male child but she has separated from him since 2015. It is alleged that after marriage petitioner and informant went to Varanasi where they resided for 4-5 months and started living like husband and wife and the informant became pregnant. The petitioner allegedly asked her to abort but she refused to do so and gave birth to a girl child on 08.12.2021 at Kurji Hospital, Patna where this petitioner signed as father of the girl child. The informant always insisted to take her to matrimonial home but the petitioner always evaded her and eventually she came to know that this petitioner has married another lady on 12.12.2021. It is alleged that the informant went to petitioner's house with her girl child and her father and brother where this petitioner and other persons abused and ousted them.

4. Learned Senior counsel for the petitioner submits that the Opposite Party No.2 was earlier married to one Vakil Prasad in the year 2013 and she got a male child born in the year 2015, from the wedlock. This marriage is still existing. Her husband has filed an application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights and the Opposite

Party No.2 has filed an application giving rise to Matrimonial Case No. 614 of 2020 in the court of learned Principal Judge, Family Court, Patna for dissolution of marriage.

5. Learned Senior counsel submits that so far as the relationship between the petitioner and the Opposite Party No.2 is concerned, the same is not denied but the relationship developed with the consent of the two adults and the Opposite Party No.2 knowing fully well that she was married had developed the relationship with the petitioner.

6. Learned counsel further submits that the petitioner does not dispute the paternity of the girl child who was born out of the consensual relationship between the opposite party No. 2 and the petitioner. The girl child was born on 8th of December, 2021 and on the said date, the petitioner had himself got recorded his name as her father's name.

7. Sri Krishna Prasad Singh, learned Senior counsel for the petitioner, on instruction, submits that the petitioner shall never question the paternity of the girl child and he shall ensure that she is duly educated and married. In this regard, whatever expenses will be required to be borne, the petitioner is ready to bear those expenses.

8. In order to show his bonafides, learned Senior

counsel submits, on instruction, that for the present, since the girl child is with her mother, the petitioner shall pay a sum of Rs. 15,000/- per month within first seven days of every month in the bank account of the Opposite Party No. 2. Learned Senior counsel for the petitioner submits that the Opposite Party No. 2 should provide her bank account details.

9. Mr. Chaudhary, learned counsel for the Opposite Party No. 2 submits that without any prejudice to the case of the informant-Opposite Party No. 2, on instruction from Opposite Party No. 2, who is herself present in the Court, accepts the offer of the petitioner as the Opposite Party No. 2 and her girl child are in stringent financial condition and need immediate financial help.

10. It is submitted that the petitioner had executed a bond that he will marry the Opposite Party No. 2 but cheated her by performing a marriage with another lady after birth of the girl child.

11. Having regard to the peculiar kind of facts and circumstances of the case and the present offer made on behalf of the petitioner which has been accepted by the Opposite Party No. 2 without any prejudice to her case, this Court directs that in case of his arrest or surrender within a period of four weeks

from today, the petitioner above named be released on bail in connection with Mahila P.S. Case No. 34 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 Shri Arvind Kumar Singh, learned Judicial Magistrate, 1st Class, Patna subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

12. 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.

13. Further condition that in terms of his own offer, the petitioner shall pay a sum of Rs. 15,000/- every month within first seven days of the month in the bank account of the Opposite Party No. 2 and further he would ensure that the girl child, whose name has not been purposely disclosed in the order sheet, is duly educated and her educational and marriage expenses shall be born by the petitioner

14. In case of breach of any of the conditions mentioned hereinabove, it will be open for the Opposite Party No. 2 to move this Court for cancellation of bail bond of the petitioner.

15. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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