

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47351 of 2022

Arising Out of PS. Case No.-4 Year-2022 Thana- MAHILA P.S. District- Siwan

Arvind Nath Tiwari Son of Vidhyasagar Nath Tiwari Resident of Village -
Koharwaliya, P.O.- Belodi, P.s.- Guthani, Distt.- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Manali Kumari W/o Arvind Nath Tiwari Resident of Village - Bhalue, P.s.-
Badhariya, Distt.- Siwan.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashi Kumar Sharma, Advocate
For the Opposite Party/s : Mr. Harendra Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 11-05-2023 Heard Mr. Shashi Kumar Sharma, learned Counsel
appearing on behalf of the petitioner and Mr. Harendra Prasad,
learned A.P.P. appearing on behalf of the State.

2. The petitioner seeks pre-arrest bail in connection
with Siwan Mahila P.S. Case No. 04 of 2022 for the offences
punishable under Sections 323, 341, 506, 498(A) and 34 of the
Indian Penal Code and Section 3/4 of the Dowry Prohibition
Act.

3. Learned Counsel appearing on behalf of the
petitioner informs this Court that petitioner is undergoing
mental treatment at Ranchi. The specific case of the petitioner is
that Opposite Party No.2 has subjected the petitioner by putting
the condition miserable. Learned counsel further submits that



the petitioner is a teacher and was running a coaching institute and after Covid-19 pandemic his coaching institute was closed due to which the petitioner is leading a very pathetic life.

4. Learned Counsel appearing on behalf of the Opposite Party No.2 submits that the allegation which has been levelled against the petitioner in the F.I.R. is of cognizable offence and the allegation of assault is substantiated by the photographs enclosed with the medical report which has been furnished by the Opposite Party No.2 and has been brought on record in the bail application. Learned counsel further submits that Opposite Party No.2 is having a girl child out of the wedlock which took place in year, 2019.

5. Having considered the rival submissions of the parties, as well as, the submission made on behalf of the petitioner, this Court concludes that during the Covid-19 Pandemic period strained relationship developed between the husband and wife and their ego clashed during which they fought with each other and petitioner left the company of the Opposite Party No.2.

6. Considering the fact that Opposite Party No.2 is not willing to live along with the petitioner, this Court is conscious of the girl child's well-being and will not abdicate itself from



the duty of *parens patriae*, the petitioner is directed to take care of the minor girl child. The parties may seek for the custody of his minor girl child in accordance with provision of the Act.

7. At this stage learned counsel for the petitioner informs this Court that the petitioner is ready to meet the expenses of the girl child by providing her due care as well as proper education by spending Rs. 10,000/- per month in the account opened in the name of girl child and is ready to bring on record.

8. The petitioner may file an affidavit to the above effect, the Court below, after perusing the affidavit and the bank account so opened in the name of the minor girl child, shall release the petitioner on anticipatory bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each, to the satisfaction of learned Sessions Judge, Siwan in connection with Siwan Mahila P.S. Case No. 04 of 2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

9. Respective parties are free to avail appropriate remedy before the appropriate forum.

10. The Court below is directed to personally examine



the girl child in a friendly environment in presence of a female doctor as well as a female advocate. The girl child is directed to be examined to ascertain the allegation of assault that the petitioner was involved in causing cigarette burn injury on the body of the girl child.

11. This Court is also surprised that no cognizance was taken by the Court below under the provision of POCSO Act against the petitioner.

(Purnendu Singh, J)

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