

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55370 of 2023

Arising Out of PS. Case No.-2221 Year-2016 Thana- PATNA COMPLAINT CASE District-
Patna

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Jawala Singh @ Jawala Prasad S/O Late Sonelal R/O Village- Bhataura, P.S.-
Taraiya, Dist.- Saran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Soni Kumari D/O Late Bindeshwar Sah R/O Mohalla- Ramkrishna Nagar,
Dist. Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prakash Chandra Jha, Advocate

For the Opposite Party/s : Mr. Ahmad Ali, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 20-09-2023 Heard Mr. Prakash Chandra Jha, learned counsel

appearing on behalf of the petitioner and the learned Additional

Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with Complaint Case No. 2221 of 2016, wherein cognizance has
been taken under Section 498(A) of the Indian Penal Code and
Section 4 of the Dowry Prohibition Act.

3. Allegedly, the marriage of the petitioner was
solemnized with the opposite party no. 2 on 19.04.2012,
however, soon after the marriage, informant was subjected to
torture on account of non fulfillment of the demand of dowry
and finally she was ousted from her matrimonial house.



4. Learned counsel appearing on behalf of the petitioner submits that prior to the institution of the complaint case, the petitioner had filed a Matrimonial Case No. 360 of 2012 on 27.09.2012 seeking restitution of conjugal right under Section 9 of the Hindu Marriage Act, 1955, however, despite notice being issued, the opposite party did not turn up, which resulted into ex-parte order on 27.11.2013. He next submitted that the petitioner having lost all his hope of her return had filed Matrimonial (Divorce) Case No. 116 of 2014 under Section 13(1)(1-a) of the Hindu Marriage Act, but again the opposite party did not turn up and the aforesaid divorce case further resulted in ex-parte order/decreed of divorce vide order dated 07.02.2015/21.02.2015 respectively, the copies of which have been brought on record by way of Annexures 3 and 4. He lastly submits that the cognizance in the present case has been taken on 17.11.2017, but no process has ever been served upon him due to which delay has occurred in approaching this Court.

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application and submits that the case is of 2016 and the petitioner is approaching this Court after a long delay of seven years.

6. Regard being had to the submissions made on



behalf of the parties and considering the fact that prior to the institution of the complaint a decree for restitution of conjugal right and further decree for divorce have already been passed in favour of the petitioner, let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Sub Divisional Judicial Magistrate, Patna in connection with Complaint Case No. 2221 of 2016, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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