

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50189 of 2022

Arising Out of PS. Case No.-78 Year-2020 Thana- NAWADAH COMPLAINT CASE
District- Nawada

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Kunal Chauhan @ Kundan Chauhan Son Of Subhash Chauhan Resident Of
Village - Bhalua, P.S.- Bela, District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shobha Devi Wife of Kunal Chauhan @ Kundan Chauhan Daughter of Late Kanhiya Chauhan at present residing at village - Garo Bigha, P.S.- Narhat, District - Nawada.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ratnakar Pandey, Advocate
For the Opposite Party/s : Ms. Sangeeta Sharma, APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 12-05-2023 Heard Mr. Ratnakar Pandey, learned counsel

appearing on behalf of the petitioner and Ms. Sangeeta Sharma,

learned APP appearing on behalf of the State.

2. The petitioner apprehends his arrest in connection
with Complaint Case No. 78 of 2020 registered under Sections
323 and 498(A) of the Indian Penal Code.

3. The prosecution story, in brief, is that the
complainant has alleged that the petitioner who is her husband
assaulted her and also demanded dowry of Rs. 2 lakhs along
with other articles.

4. Learned counsel appearing on behalf of the
petitioner submits that the petitioner is ready to live along with
the Opposite Party No. 2, however, for that purpose he has also
filed a restitution petition under Section 9 of the Hindu Marriage



Act in the Court of Principal Judge, Family Court, Nawada and the same has been brought on record by way of Annexure-2 for which notices have also been issued to Opposite Party No. 2 and as per the information given by the *Pairvikar* she has not participated in the proceeding. Learned counsel further submits that after filing of the restitution petition the Opposite Party No. 2 has filed the present case which is based on false allegation. Learned counsel further submits that petitioner on several occasion tried to bring his wife(complainant) to lead a happy conjugal life in spite of the said efforts the Opposite Party No. 2 has filed the present complaint.

5. Learned counsel appearing on behalf of the Opposite Party No. 2 submits that she has received instruction from the Opposite Party No. 2 that the petitioner is living along with another lady and the same is objected by Opposite Party No. 2 in such circumstances she is not ready to live along with the petitioner.

6. Learned APP has vehemently opposed the prayer for grant of bail to the petitioner.

7. Having heard the rival submission of the parties taking into consideration the nature of allegation made against the petitioner as well as the fact that the parties are having



strained relationship and from the statement made on behalf of the Opposite Party No. 2, it appears that Opposite Party No. 2 is not ready to live along with the petitioner because the petitioner is living along with some other lady. The Opposite Party No.2 has not brought on record any document to show the factum of allegation made against the petitioner. This Court finds that restitution petition is already pending against the Court below, it would be in the interest of justice and also taking into consideration the objective of the Family Court act the parties must endeavor to reconcile their matrimonial dispute and lead a happy matrimonial life.

8. The petitioner is directed to be released on provisional bail and strive to reconcile their strained matrimonial relationship and enter into a happy matrimonial life.

9. The Court below must endeavor to give all possible opportunities to the parties by calling upon both the parties and if the parties are ready to live together and lead a happy matrimonial life, the provisional bail granted to the petitioner shall be made absolute after a period of one year.

10. If it is found that Opposite Party No. 2 is not ready to live along with the petitioner then in that case Opposite Party



No. 2 may avail appropriate remedy before the appropriate Court having jurisdiction. In that case also the provisional bail of the petitioner shall be made absolute subject to the condition laid down under Section 482(2) Cr.P.C.

11. The present bail application, accordingly, stands disposed of.

(Purnendu Singh, J)

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