

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52733 of 2022

Arising Out of PS. Case No.-507 Year-2021 Thana- AGAMKUAN District- Patna

Rajesh Kumar Son Of Late Prabhu Dayal Sahni R/O Mohalla- Bhagawat Nagar, Aadarsh Colony, Near Chandan Hero Service Centre, P.S.- Agamkuan, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Niketa Kumari D/O Shambhu Nath Prasad And Wife Of Rajesh Kumar Resident At Prabhu Kaushalya Bhawan, Adarsh Colony Bhagwatnagar, Agamkuan, District- Patna. At Present Address- Ward No.-06, Hotel Kantika, Rajapur, P.O. And P.S.- Bodh Gaya, District- Gaya

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar, Advocate
For the O.P. No.2	:	Mr. Shivendra Prasad, Advocate
For the State	:	Mr. Dinesh Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 20-04-2023 Heard Mr. Anil Kumar, learned counsel appearing on behalf of the petitioner, Mr. Shivendra Prasad, learned counsel appearing on behalf of the opposite party no. 2 and Mr. Dinesh Singh, learned A.P.P. for the State.

2. It has been informed by learned counsel appearing on behalf of the petitioner that petitioner is ready to face the consequences but he will not live with the opposite party no. 2, who is his wife. By way of last resort, Mr. Anil Kumar and Mr. Shivendra Prasad tried to resolve the strained relationship between the parties. The opposite party no. 2 namely, Niketa Kumari is present in the Court along with girl child and is still willing to live along with the petitioner.



3. The conduct of the petitioner appears to be unwarranted as informed that he is also not ready to keep his minor children. The Hindu Minority and Guardianship Act, 1956, cast upon the father in terms of Section 6 of The Hindu Minority and Guardianship Act, 1956, once the child attains age of 5 years, the father becomes natural guardian of the child.

4. This Court is pained with the outcome of the mediation as well as the effort taken by the counsels. The only alternative which this Court finds is that the interest of children is required to be taken care of by this Court under the *parens patriae* jurisdiction. The opposite party no. 2 is a house wife and she does not have any source of income. The petitioner has willingly submitted that in the interest of two children he is ready to open a joint account in name of the two minor girl children. He is also ready to deposit Rs. 5,00,000/- (Rupees Five Lakhs) in lumpsum and thereafter deposit Rs. 20,000/- (Rupees Twenty Thousand) on monthly basis in the joint account so opened.

5. The Superintendent of Police, Patna is directed to depute an officer not below the rank of Dy. S.P., who will



help in opening a joint bank account in favour of the girl children in which an amount of Rs. 5,00,000/- will be deposited and the account will be exclusively operated by the mother of the minor children.

6. It has been informed that petitioner is a bank officer. It has been further informed by the learned counsel appearing on behalf of the opposite party no. 2 that it would be advisable that this order may be communicated to the controlling officer of the petitioner, who is working in Bank of Maharashtra in the State of Uttar Pradesh.

7. The Superintendent of Police must get detailed information about the place of employment of the petitioner and also ensure that the bank account is opened forthwith.

8. The Branch Manager of the concerned bank where the petitioner is employed is directed to debit the amount from the salary of the petitioner directly and credit Rs. 20,000/- on monthly basis and amount of Rs. 5,00,000/- in lump-sum in the joint account opened in the name of the minor children forthwith so that the two minor children of the petitioner can be taken care of by the mother (opposite party no.2).



9. This Court has passed this order in the peculiar facts of the case taking into account the interest of children. The petitioner is working and he is employed in nationalised bank and if he is sent behind the bar, the interest/daily need of the two minor children will be defeated.

10. Therefore, in the interest of justice, with warning, this Court directs the petitioner to be released provisionally on pre-arrest bail for four weeks during which period he must open the bank account and the controlling officer of the petitioner must honour the wishes of the petitioner, who has willingly agreed to deposit Rs. 5,00,000/- the same be debited from the account of the petitioner and credited the same in the newly opened joint account in the name of the two minor children and monthly credit of Rs. 20,000/- per month.

11. The Provisional bail granted to the petitioner shall remain in force in above terms.

12. It is made clear that in case, any complain is made by the opposite party no. 2 either to the Superintendent of Police or to the Controlling Officer of the



petitioner where he works then the provisional bail granted to the petitioner shall loose its force automatically. If no complain is made by the opposite party no. 2 then the provisional bail granted to the petitioner shall be made absolute on such terms and conditions as fixed by the Court below.

13. Accordingly, the present bail application is disposed of.

(Purnendu Singh, J)

Niraj/Nilmani

U		T	
---	--	---	--

