

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58633 of 2022

Arising Out of PS. Case No.-20 Year-2021 Thana- SAHARSA COMPLAINT CASE District-
Saharsa

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Kumod Kumar Suman @ Kumod Kumar @ Kumud Kumar Suman Son of
Chandeshwari Yadav, Resident of Village- Chainpur Tola Dholi, P.S.-
Bangawon, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Priyanka Kumari Son of Mahendra Swarnkar Resident of Village- Patarghat,
P.S.- Sour Bazar (O.P.) Patarghat, District- Saharsa.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Subesh Sharma, Advocate
For the Opposite Party/s	:	Mr.Atul Chandra, APP
For the Informant	:	Mr.Rajnish Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

7 29-04-2023 Heard learned counsel for the parties.

2. The petitioner seeks pre-arrest bail in connection with Complaint No.20c/2021 registered for the offences punishable under Sections 323, 498A, 506/34 of the Indian Penal Code and $\frac{3}{4}$ of the Dowry Prohibition Act.

3. Learned counsel appearing on behalf of the petitioner has denied the factum of marriage with O.P.No.2. He submits that the petitioner is still unmarried and there is no evidence to prove the factum of marriage between the petitioner and the O.P.No.2 in accordance with Hindu Special Marriage Act or the Special Marriage Act, 1956.



4. Learned counsel appearing on behalf of the O.P.no.2 submits that there are ample evidence to show that the petitioner and O.P.No.2 are legally married. The petitioner can not be discharged from the liability to give due respect to his legally wedded wife (O.P.No.2).

5. In course of hearing, it has emerged that the petitioner has denied the factum of marriage with the O.P.No.2, while the O.P.no.2 claims that there is ample evidence to prove the factum of marriage of petitioner with her. In such circumstances, the parties may avail appropriate civil remedy before the competent court.

6. Considering the nature of allegation made against the petitioner, the petitioner is directed to be released on pre-arrest bail provisionally in connection with Complaint Case No.20c/2021 pending before Sri Gautam Kumar, J.M. Ist Class, Saharsa/concerned court on such terms and conditions the court thinks it fit and proper in the facts of the case. In case the O.P.No.2 and the petitioner file their respective affidavit before the court below either denying the marriage or supporting the factum of marriage as per their respective claim, in that case the court below after giving opportunity to adduce evidence to prove that both the parties had entered into relationship will try



to amicably settle their dispute within a period of six weeks. In the meantime, no coercive action shall be taken against the petitioner in Complaint case No.20c of 2021. The learned court below must also try to reconcile the the dispute if *prima facie* case is of extra matrimonial relationship between the parties. In case *prima facie* the factum of marriage is not sustainable, the petitioner in that case is directed to be released on anticipatory bail on such terms and conditions as deems fit and proper by the learned court below. The order is required to be passed within a period of six weeks on such terms and conditions under Section 438(2) of the Code of Criminal Procedure and other conditions as the court below deems fit and proper.

7. Accordingly, this bail application is disposed of.

(Purnendu Singh, J)

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