

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60585 of 2023

Arising Out of PS. Case No.-198 Year-2022 Thana- KASIMBAZAR District- Munger

Mithlesh Kumar Son Of Subhash Madal Resident Of Village - Etwa, P.S. -
Dharhara, District - Munger

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Puja Kumari Wife Of Mithlesh Kumar, D/O. Akhilesh Thakur Resident Of
Village And P.O. - Kadarchak, P.S. - Shambhuganj, District - Banka

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ram Sevak Choudhary, Advocate
For the Opposite Party/s : Mr. Anuj Kumar Shrivastava, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 06-12-2023 Heard Mr. Ram Sevak Choudhary, learned counsel
appearing on behalf of the petitioner and the learned Additional
Public Prosecutor for the State.

2. The petitioner, who happens to be husband of the
O.P. No. 2, apprehends his arrest in connection with Kasim
Bazar P.S. Case No. 198 of 2022, registered for the offences
punishable under Sections 341, 323, 504 and 498(A)/34 of the
Indian Penal Code.

3. Allegedly, the marriage of the petitioner was
solemnized on 04.03.2015, under the Hindu rites and customs
and couple also blessed with one son and one daughter.
However, soon thereafter, the O.P. No. 2 was subjected to
demand of dowry and on account of non fulfillment of the same,



she was tortured in various ways and thus, she left the matrimonial home on 29.04.2022.

4. Learned counsel appearing on behalf of the petitioner submits that admittedly the marriage was solemnized in the year 2015 and the couple also blessed with two children thus, at this stage, any demand of dowry does not inspire any confidence. He next submits that prior to the institution of this present FIR, a *Sanha* was lodged by the petitioner before the learned Chief Judicial Magistrate, Munger on 28.05.2023. The petitioner has also filed Matrimonial Case No. 110 of 2022 under Section 9 of the Hindu Marriage Act for restitution of conjugal right. In fact, on having come to know about the filing of the matrimonial case, the present FIR has been instituted only in order to wreck vengeance and to pressurize the petitioner in order to bring him into a settlement. He next submits that even as per the narrations made in the FIR, it appears that the O.P. No. 2 left the matrimonial home on 29.04.2022, but the present FIR has been instituted on 22.07.2022, after a delay of 3 months. That apart, the petitioner is a man of fair antecedent and he undertakes that he will fully co-operate in the investigation or in the proceeding of the Court. He lastly submits that the bona fide of the petitioner is writ large that he has always been



inclined to keep the O.P. No. 2, as his legally wedded wife and, as such, he has filed matrimonial case for restitution of conjugal life.

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application and submits that specific allegation has been levelled against the petitioner.

6. Needless to observe that despite receipt of the notice, the O.P. No. 2 did not enter her appearance.

7. Regard being had to the submissions made on behalf of the parties and considering the fact that prior to the institution of the FIR, the petitioner has already filed a matrimonial case for restitution of conjugal life, apart from the fact that the petitioner having fair antecedent and the fact that marriage has been solemnized way back in the year 2015 and there is two children out of the said wedlock, 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 Chief Judicial Magistrate, Munger in connection with Kasim Bazar P.S. Case No. 198 of 2022 , 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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