

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67729 of 2022**

Arising Out of PS. Case No.-1604 Year-2021 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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Avinash Kumar Son of Rajkishor Singh @ Rajkishore Singh R/V- Pagra, P.S-
Dalsinghsarai, Dist- Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rashmi Kumari Wife of Avinash Kumar , Daughter of Abhinandan Singh
R/V- Iniyar, P.S- Muffasil, Dist- Begusarai

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sandip Kumar Gautam, Advocate
For the Opposite Party/s	:	Mr. Ajay Kumar No. 2, APP
For the Complainant	:	Mr. Saroj Kumar Sharma, Advocate
		Mr. Vikash Kumar, Advocate
		Mr. Anupam Bahadur, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

7 18-10-2023 Heard Mr. Sandip Kumar Gautam, learned counsel

for the petitioner, Mr. Saroj Kumar Sharma, learned counsel
appearing on behalf of the complainant as well as Mr. Ajay
Kumar No. 2, learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Complaint Case No. 1604C of 2021, dated
26.11.2021 for the offences punishable under Sections 323, 307,
406 and 498A of the Indian Penal Code and Section 3/4 of the
D.P. Act but the learned Court has taken cognizance under
Sections 323, 406 and 498A of the Indian Penal Code and
Section 3/4 of the D.P. Act.



3. The complaint case relates to assault and torture to the complainant due to non-fulfillment of demand of dowry.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the complaint petition is false and fabricated and the petitioner has not committed any offences as alleged in the complaint petition. He further submits that the petitioner has never demanded any dowry from the family members of the complainant and he has been made accused in the present case only on the ground that he is the husband of the complainant. He further submits that the petitioner has filed Matrimonial Case No. 128 of 2022 under Section 9 of the Hindu Marriage Act for restitution of his conjugal rights and thereafter, the complainant has filed Maintenance Case No. 145M of 2022 before the Court of learned Principle Judge, Family Court, Begusarai and she has also filed the Domestic Violence Case No. 15 of 2022 and the same is pending for the consideration.

5. Vide order dated 24.06.2023 the matter was referred to the Mediation Centre, Patna High Court for settlement of the dispute between the parties. Report of the learned Mediator dated 21.09.2023 suggests that the disputes between the parties could not be resolved.



6. The learned counsel appearing on behalf of the complainant has vehemently opposed the prayer for bail of the petitioner and submits that due to casual approach of the petitioner, the matter could not be resolved in the mediation proceeding. Despite of the order of Maintenance Case No. 145 of 2022, the petitioner has not paid a single amount to the complainant and in the Domestic Violence Case No. 145M of 2022 the learned Court below has directed the petitioner to provide one room to the complainant but he has not complied the same.

7. Learned counsel for the petitioner submits that on instruction, he is ready to pay Rs. 10,000/- per month as directed in the Maintenance Case No. 145 of 2022 and shall pay Rs. 1,40,000/- by way of demand draft in favour of the complainant at the time of furnishing the bail bond as directed in the aforesaid Maintenance Case.

8. Considering the aforesaid facts and circumstances, let the petitioner, above named, in the event of arrest or surrender before the court below within a period of six weeks from the date of receipt of the order, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned



Sub Divisional Judicial Magistrate, Begusarai in connection with Complaint Case No. 1604C of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

i. Petitioner shall deposit a demand draft of Rs. 1,40,000/- at the time of furnishing the bail bond in favour of the complainant and the learned Court below is directed to hand over the said demand draft to the complainant or her representative. Petitioner shall also pay Rs. 10,000/- per month to the complainant till the order of the Maintenance Case is set aside by the competent Court. If the petitioner has failed to comply the aforesaid order the complainant has liberty to move before the learned Trial Court for cancellation of his bail bond.

ii. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

iii. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iv. And further condition that the court below shall



verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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