

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72454 of 2023

Arising Out of PS. Case No.-354 Year-2021 Thana- DALSINGHSARAI District- Samastipur

SUMAN KUMAR Son of Shyam Swaroop Chaurasiya Resident of Village -
English Patam, P.S.- Naya Ramnagar, District - Munger.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Aayushi Kumari @ Puja Kumari Wife of Suman Kumar , Daughter of Shyam Chaurasiya Resident of Village - English Patam, P.S.- Naya Ramnagar, District - Munger. At present Resident of Village - Shahit Raja Chowk, Police Station- Vidyapati Nagar, Distt.- Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mahendra Pratap, Advocate
For the Opposite Party/s: Mr. Shailendra Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 10-11-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

2. Heard learned counsel for the petitioner and learned counsel for the complainant as well as learned Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in a case in connection with Complaint Case No. 354 of 2021 (T.R. No. 1068 of 2022) dated 17.12.2021 registered for the offence/s punishable u/ss 323, 341, 498A, 504, 506 read with section 34 of the Indian Penal Code and ¾ of the DP Act but the



congnizance has been taken for the offences punishable u/ss 323, 341, 498A, 494, 504 and 506 read with section 34 of the Indian Penal Code

4. As per the prosecution case, the petitioner and the co-accused persons are alleged to have tortured the complainant mentally and physically due to non-fulfillment of demand of Rs. 5,00,000/- as dowry.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner is the husband of the complainant. Earlier the complainant has also registered an FIR against the petitioner bearing case no. 255 of 2018 in connection with Naya Ramnagar u/ss 323, 341, 498A, 504, 506 read with section 34 of the Indian Penal Code and $\frac{3}{4}$ of the DP Act. The petitioner neither demanded any dowry nor tortured the complainant. There is general and omnibus allegation against the petitioner. The petitioner has relied upon the judgment of this Court in the case of "**Md. Naimul Haque Ansari @ Naimul Haque Ansari & Ors. Vs. The State of Bihar, reported in 2006(3) PLJR 182.**" Learned counsel has further submitted that Section 498A of the IPC is triable by the Magistrate. Learned counsel has further relied on the judgments in the case of **Satendra Kumar**



Antil Vs. Central Bureau of Investigation and Another (2022) 10 SCR 351 and Md. Asfak Alam Vs. The State of Jharkhand & Anr passed in Criminal Appeal No(s). 2207 of 2023 arising out of Special Leave Petition (CRL.) No. 3433 of 2023. The petitioner has one criminal antecedent as stated at para 3 of the bail petition.

6. Learned counsel for the complainant as well as learned A.P.P. for the State has vehemently opposed the anticipatory bail petition of the petitioner. It is further submitted that the petitioner has already been solemnized the second marriage and he used to torture the complainant mentally and physically.

7. Considering the aforesaid facts and circumstances of the case, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Dalsingsarai, Samastipur in connection with Complaint Case No. 354 of 2021 (T.R. No. 1068 of 2022), subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition/s:-



(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

8. If so advised, either of the parties will be at liberty to make an application before the Court below for referring the matter to the District Mediation Centre for the purpose of reconciliation or one time settlement.

9. The application stands allowed.

(Chandra Prakash Singh, J)

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