

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72475 of 2022

Arising Out of PS. Case No.-847 Year-2018 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

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Md. Nabab, age 44 years, Male, Son Of Md. Shamim, R/O Vill.- Chowk
Road, Near, Bharat Tent House, P.S.- Kotwali, Distt.- Gaya

... .. Petitioner

Versus

1. The State of Bihar.
2. Shahin Khatoon, age 39 years, Female, Wife Of Md. Nawab, D/O- Late Md. Salim, R/O Mohalla- Ganj Mahalla (Sabji Mandi), P.O. and P.S.- Distt.- Aurangabad

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Sunil Kumar Yadav, Advocate
For the O.P. No. 2	:	None.
For the State	:	Mr. Bishweshwar Ram, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

12 07-12-2023 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 Additional Public Prosecutor for the State. However, learned counsel for the opposite party no. 2 is not present. On the last occasion i.e., 28.11.2023 also, learned counsel for the opposite party no. 2 was not present.

3. The petitioner is apprehending his arrest in connection with Complaint Case No. 847 of 2018 dated 13.09.2018 for the offence punishable under Sections 147, 148,



149, 323, 384, 506, 427, 379 and 498A of the I.P.C. in which cognizance has been taken under Sections 323 and 498A of the I.P.C.

4. As per the prosecution case, the petitioner and other co-accused persons are alleged to have tortured physically and mentally the complainant due to non-fulfilment of demand of Rs. 1,00,000/- and a Motorcycle as dowry.

5. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. The petitioner neither demanded any dowry nor tortured the complainant. It is further submitted that the petitioner is the husband of the complainant and he has no concern with the alleged offence. There is general and omnibus allegation against the petitioner. It is submitted that the marriage between the parties has been solemnized in the year 2002 and after 16 years, the present complaint has been filed by the complainant in the year 2018. The petitioner has three children out of their wedlock. The matter was sent to the District Mediation Center by the learned court below but physically the complainant was not present in the Mediation Center. The petitioner has further 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*” and 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*. Learned counsel for the petitioner has further submitted that Section 498(A) of the Indian Penal Code is triable by the Magistrate. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail application.

6. Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioner. However, learned counsel for the opposite party no. 2 is not present.

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 anticipatory bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Sub Divisional Judicial Magistrate, Aurangabad, in connection with Complaint Case No. 847 of 2018, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure with



further condition:-

(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 bonds of the petitioner are 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. Further, in view of the order dated 18.10.2023, learned counsel for the petitioner is directed to provide a demand draft with respect to maintenance amount in question in favour of the complainant with a period of two months.

10. The application stands allowed.

(Chandra Prakash Singh, J)

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