

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25083 of 2021

Arising Out of PS. Case No.-573 Year-2020 Thana- GARKHA District- Saran

Avanish Kumar Ojha, aged about 35 years, Gender-Male, Son of Doenath Ojha, Resident of Village- Rampur Atauli, P.S.- Isuapur, District- Saran at Chapra.

... .. Petitioner

Versus

1. The State of Bihar.
2. Anupriya, W/O Avanish Kumar Ojha, D/O Jai Prakash Sharma, R/O village-Rampur Atauli, P.S. Isuapur, District-Saran. At present, R/O Village-Mahammadpur, P.O.+ P.S. Garkha, District-Saran at Chapra.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Dewendra Narayan Singh, Advocate
For the O.P. No. 2	:	Mr. Binod Murari Mishra, Advocate
For the State	:	Mr. A.G.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 09-01-2024 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, learned counsel for the opposite party no. 2 and learned Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in connection with Garkha P.S. Case No. 573 of 2020 dated 25.11.2020 registered for the offences punishable under Sections 341, 323, 406, 420, 498A/34 of the I.P.C. and Section 3/4 of the D.P. Act.



4. As per the prosecution case, the petitioner and other co-accused persons are alleged to have tortured the informant due to non-fulfilment of demand of Rs. 10,00,000/- as dowry. It is further alleged that the petitioner has illicit relationship with his sister-in-law (Bhabhi).

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 informant and he has no concern with the alleged offence. It is submitted that after lodging of the present case, the informant has also filed a Complaint Case No. 2473 of 2020 before the Mahila Helpline, Saran on 02.12.2020 against the petitioner and others for the same and similar allegation which was referred to the learned C.J.M., Saran at Chapra. It is further submitted that the petitioner has filed Divorce Case No. 146 of 2020 in the court of learned Principal Judge, Family Court, Saran at Chapra on 09.12.2020 against the informant seeking decree of divorce dissolving the marriage of the petitioner with the informant on the ground of cruelty and desertion. Learned counsel for the petitioner has relied upon the judgments 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 498A 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 and learned counsel for the opposite party no. 2 have opposed the prayer for anticipatory bail of the petitioner.

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 court concerned, Saran at Chapra in connection with Garkha P.S. Case No. 573 of 2020, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.



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)

U.K./-

U		T	
---	--	---	--

