

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19123 of 2024

Arising Out of PS. Case No.-140 Year-2023 Thana- AIRPORT District- Patna

Dhananjay Kumar son of Late Prem Kumar Ram R/O-Kaushal Nagar, Police Road, Quarter No. 27, P.S.-Hawai Adda, Distt.-Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kajal Kumari daughter of Ramesh Prasad R/O-Mubarakpur, Sati Chaura Mandir, Near Ice Cream Factory, Danapur, Ps.-Shahpur, Distt.-Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Vinod Kumar
For the State	:	Mr.Raj Ballabh Singh, Adv.
For the Informant	:	Mr. Amit Narayan, Adv.
		Mr. Bablu Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 24-04-2024 Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the informant and learned A.P.P. for the State.

2. In the present case, the petitioner is apprehending his arrest in connection with Hawai Adda P.S. Case No. 140 of 2023, registered on 16.07.2023 for the offences under Sections 341, 323, 379, 494, 498A and 34 of the Indian Penal Code.

3. As per the prosecution case, the marriage of the petitioner was solemnized with the informant at Banka, Police Line on 31st of March, 2023. Thereafter, there is allegation of demand of Rs. Ten Lakh as dowry by the elder brother of the petitioner and there is further allegation of physical and mental

torture by the petitioner and his brother and sisters and other family members. Further allegation against the petitioner is that he has solemnized another marriage.

4. Learned counsel appearing on behalf of the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner's sister is married with the brother of the informant. The petitioner was forced into the marriage dated 31st of March, 2023 by his superiors as the petitioner got employed as constable after death of his father on compassionate ground. There has been constant threat that the sister of the petitioner would suffer if the petitioner refused to accept the informant as his wife and for this reason the petitioner's elder brother while filing the anticipatory bail petition stated that they were ready to keep the informant with dignity. Learned counsel appearing on behalf of the petitioner further submits that petitioner completely denies the marriage with the informant and no marriage as per Hindu rites and rituals took place and no saptapadi was performed. The petitioner has challenged the marriage seeking its annulment by filing Matrimonial Case No. 987 of 2023 before the learned Principal Judge, Family Court, Patna. The informant gave two petitions to the authorities,. In the first petition to the S.H.O.,

Danapur she stated that on 19th of January 2021, the petitioner put vermilion on her forehead whereas in the second application given to the Senior Superintendent of Police, Banka on 30th of June 2023, she changed the date to 12th of December, 2022. Under the pressure of his superior officers the petitioner was forced to enter into marriage with the informant by putting vermilion and exchange of garlands. It was a marriage without free consent and without any rites and rituals. In the said circumstances, the marriage could not be said to be performed in accordance with provisions of Hindu Marriage Act. There is completely false allegation that petitioner spent time with the informant and established physical relationship with her as it was not possible as the petitioner was staying in Police Line and was not having any independent residence. There has been no consummation of the marriage and the petitioner did not touch the informant ever.

5. Learned senior counsel appearing on behalf of the petitioner further submits that in the aforesaid facts and circumstances, there could be no question of demand of dowry or torturing the informant by the petitioner and his family members. The petitioner has already been put under suspension by the authorities. In the given circumstances, no offence under

Section 498A or Section 379 of the Indian Penal Code is made out against the petitioner. Petitioner is having no criminal antecedent.

6. Learned A.P.P. appearing for the State and learned counsel appearing on behalf of the informant vehemently oppose the submission made on behalf of the petitioner. The learned counsel appearing on behalf of the informant submits that in the anticipatory bail petition filed before the learned Sessions Court, the petitioner agreed to keep the informant with full honour and dignity and now the marriage itself is being denied. The learned counsel appearing on behalf of the informant further submits that a detailed inquiry was made by the Senior Superintendent of Police, Banka and the story of marriage was found to be true. The learned counsel further submits that the informant is willing to settle the dispute with the petitioner if given opportunity.

7. Having regard to the fact and circumstances and submission made on behalf of the parties and also the background of the marriage of the petitioner coupled with other instances and further considering possibility of false accusation for the offences alleged against the petitioner, let the petitioner above named, in the event of his arrest or surrender before the

court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of learned J.M.-Ist Class, Patna in connection with Hawai Adda P.S. Case No. 140 of 2023, subject to the condition laid down under Section 438(2) of the code of Criminal Procedure and other following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the below, if so required by the learned trial court.

(Arun Kumar Jha, J)

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