

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24122 of 2020

Arising Out of PS. Case No.-164 Year-2018 Thana- POTHIYA District- Kishanganj

Md. Salim @ Salim @ Salim Khan, aged about 21 years, Male, Son of Md. Hanif @ Hanif, Resident of Village- Saita Bari, Saithabari, Pathan Tola, P.S.- Pothia, Distt- Kishanganj.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Diwakar Sinha, Advocate
For the Informant	:	None.
For the Opposite Party	:	Mr. A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

7 16-07-2024 Learned counsel for the petitioner is directed to remove the defect(s), 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.

3. Vide order dated 21.09.2020, the petitioner was granted provisional bail in connection with Pothiya P.S. Case No. 164 of 2018 dated 24.10.2018 registered for the offences punishable under Sections 341, 323, 506 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 the informant due to non-fulfillment of additional demand of dowry. It is further submitted that the matter has been settled between the parties by the villagers but neither the *Dan* nor the *Dain Mahr* has been returned by her in-laws. On demand, they threatened her family members to kill them.

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 informant. It is further submitted that the petitioner is the husband of the informant and he has no concern with the alleged offence. It is further submitted that the petitioner had gone to the house of the informant's parents to bring her but she and her family members assaulted him and refused to go with him. It is further submitted that from perusal of the F.I.R. itself, it appears that the informant only wants to return her gifted articles and *Dain Mahr* and not to restore the matrimonial life which itself shows the malafide intention of the informant. She herself did not desire to live at her matrimonial house as to when the petitioner tried on several occasions to pursue her but she always left her matrimonial home after short stay without any reason and information given to the petitioner. 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 one criminal antecedent in which he is on bail as stated in paragraph no. 3 of the bail application.

6. Learned A.P.P. for the State has opposed the prayer for confirmation of provisional bail of the petitioner.

7. Considering the aforesaid facts and circumstances of the case, the provisional bail granted to the petitioner, vide order dated 21.09.2020, is hereby confirmed to the satisfaction of the learned Additional Chief Judicial Magistrate, Kishanganj in connection with Pothiya P.S. Case No. 164 of 2018.

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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