

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32898 of 2024

Arising Out of PS. Case No.-424 Year-2023 Thana- GAUTAMBUDHNAGAR District-
Siwan

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Anwar Hussain Son Of Jauwad Hussain Resindent Of Village- Nawtan Po-
Gohpur Bajrahia, P.S.- G.B. Nagar Tarwara, Dist- Siwan

... .. Petitioner/s

Versus

1. The State of Bihar
2. Laldi Khatoon Wife Of Anwar Husain Resindent Of Village- Shahpur, P.S.-
Gb Nagar, Tarwara , Dist- Siwan

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwary, Advocate

For the Opposite Party/s : Mr. Suresh Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

6 29-11-2024 Heard the learned Advocate for the petitioner and the
learned Additional Public Prosecutor for the State.

2. Pursuant to the direction of this Court dated
19.07.2024, both the parties were directed to approach before
the Mediation Centre. Despite the best efforts, the dispute of the
parties could not be settled through the process of mediation. A
report, in this regard, has also been submitted by the learned
Mediator, the copy of which is kept on record.

3. The petitioner apprehends his arrest in connection
with G. B. Nagar P.S. Case No. 424 of 2023, registered for the
offences punishable under Sections 498(A), 323, 307, 504 and
506/34 of the Indian Penal Code.



4. Allegedly, the marriage of the O.P. No. 2 was solemnized with the petitioner. However, she was subjected to demand of dowry and on account of non-fulfillment of the same, she was tortured in various ways. It is also alleged that the couple blessed with two children, but on account of non-fulfillment of the demand, the O.P. No. 2 and the children were ousted from the matrimonial home.

5. Learned Advocate for the petitioner contended that prior to the institution of the FIR, the petitioner had already filed a Divorce Case No. 307 of 2023 on 03.10.2023. The notice in the aforesaid case was issued on 18.10.2023 and the institution of the FIR has been done on 15.11.2023. The present complaint case is nothing but an outburst of the divorce case is the contention of the learned Advocate for the petitioner.

6. On the other hand, learned Advocate for the O.P. No. 2 while opposing the pre-arrest bail application of the petitioner has submitted that the conduct of the petitioner is writ large that irrespective of all the efforts of the O.P. No. 2, the petitioner did not resolve his dispute. That apart, the petitioner has also left his two children and the O.P. No. 2 on penury and destitution. There is specific allegation of demand of dowry and torture against the petitioner.



7. At this juncture, learned Advocate for the petitioner contended that both the parties belong to Muslim Community and they have entered into an agreement and *talak* has also been performed, the copy of which has also been brought on record.

8. Regard being had to the submissions made on behalf of the parties and considering the nature of allegation and the fact that the prior to the institution of the FIR, there is a divorce case instituted by the petitioner, coupled with the omnibus nature of allegation and the factum of *talak*, let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate, Siwan in connection with G. B. Nagar P.S. Case No. 424 of 2023, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

9. Considering the fact that children are minor and they have been pursuing their studies, in such circumstances, this Court direct the petitioner to pay an amount of Rs. 5,000/-



to the O.P. No. 2 per month in her Bank A/c, till the order is passed by the learned Family Court.

10. It is also expected that both the parties shall co-operate in the proceeding of divorce as well as maintenance case pending before the learned Family Court.

(Harish Kumar, J)

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