

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33624 of 2023

Arising Out of PS. Case No.-10 Year-2020 Thana- EKCHARI District- Bhagalpur

Ashish Kumar Mandal @ Ashish Mandal, aged about 30 years, Gender-Male, son of Radha Mandal, R/O Village- Simana Chataiya, P.S.- Ekchari, Dist- Bhagalpur.

... .. Petitioner

Versus

1. The State of Bihar.
2. Sulekha Kumari, wife of Ashish Kumar Mandal @ Ashish Mandal, R/O Vill- Simana Chataiya, P.S.- Ekchari, Dist- Bhagalpur. At Present- D/o- Dinesh Mandal, R/O Vill and P.S.- Budhuchak, Dist- Bhagalpur.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Tarun Prasad Mandal, Advocate
For the O.P. No. 2	:	None
For the State	:	Mrs. Sharda Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 01-02-2024 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 and learned Additional Public Prosecutor for the State. However, learned counsel for the opposite party no. 2 is not present.

3. The petitioner is apprehending his arrest in connection with Ekchari P.S. Case No. 10 of 2020, corresponding to G.R. No. 1614 of 2020 dated 03.05.2020 registered for the offences punishable under Sections 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. 5,00,000/- 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 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 informant herself does not want to live with the petitioner. Earlier the petitioner had filed a petition under Section 9 of the Hindu Marriage Act in the Family Court, Rajsamand in the State of Rajasthan bearing Marriage Case No. 88 of 2020 on 12.03.2020 prior to lodging of the present F.I.R., which was decided in favour of the petitioner but the informant neither challenged the decree of conjugal right nor restored the matrimonial relationship. The petitioner is ready to keep the informant as his wife and his son with live, honour, dignity as stated in paragraph no. 11 of the bail petition. 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 submitted that Section 498A of the Indian Penal Code is triable by the Magistrate. It is further submitted by learned counsel for the petitioner that the petitioner and the informant are living together happily and there is no dispute between them. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail application.

6. Learned A.P.P. for the State has appeared. However, learned counsel for the opposite party no. 2 is not present. Learned A.P.P. for the State has talked with the petitioner and the opposite party no. 2 on mobile phone outside the Court and has stated that the petitioner and the informant are living together and there is no dispute in between them.

7. Considering the aforesaid facts and circumstances of the case as well as the dispute between the parties has resolved and now there is no dispute between the parties, 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, Bhagalpur in connection with Ekchari P.S. Case No. 10 of 2020, corresponding to G.R. No. 1614 of 2020, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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