

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42720 of 2024

Arising Out of PS. Case No.-106 Year-2023 Thana- SIKARHATTA District- Bhojpur

Sarafraj Alam @ Md. Sarfaraj S/O Mohamad Sagir R/O Village Sikarhatta,
P.S. Sikarhatta, Distt-Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rahana Khatun D/O M.D. Sagir R/O Village Chikasi, P.S.- Sigori, Distt-Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Raju Singh, Advocate
For the State	:	Mr. Ajay Kumar No. 2, APP
For the O.P. No.2	:	Mr. Awdhesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 23-08-2024 Heard Ld. counsel for the petitioner and Ld. APP for
the State as well as Ld. counsel for O.P. No. 2.

2. The petitioner apprehends his arrest, in connection with Sikarhatta P.S. Case No. 106 of 2023 dated 08.08.2023, registered for the offences punishable under Sections 341, 323, 504 and 498(A)/34 of the Indian Penal Code.

3. As per the prosecution case, the marriage of the informant with the accused-petitioner was solemnized on 09.03.2021 as per Muslim rites and customs and, thereafter, she joined the husband-petitioner at his matrimonial home on 10.03.2021 leading to her pregnancy and she has given birth to a son namely, Md. Farhaz on 23.11.2021. When the petitioner and



his family members came to know about the pregnancy, they doubted the legitimacy of the pregnancy and started torturing her by assaulting and denying food and compelling her to sleep on the ground. They also started demanding additional dowry of Rs.5,00,000/- and one four wheeler. She informed the matter to her parents and thereafter, her brother came to her sasural. Petitioner and his family members compelled her to go to her parents house with her brother.

4. Ld. counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that the allegation of torturing is general and omnibus and there is no specific allegation of assault with reference to date, place and time. In fact, the matrimonial life is not working between informant and the petitioner-husband on account of illegitimacy of the child. There is no truth in the allegation that she has been subjected to any cruelty.

5. It has also been stated in paragraph no.3 of the bail petition that the petitioner has no criminal antecedent.

6. It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier either for anticipatory bail or regular one in the instant case.



7. However, Ld. APP for the State and Ld. counsel for the O.P. No. 2 vehemently oppose the prayer of the petitioner for bail submitting that there is no truth at all in the allegation of illegitimacy of the child. The child is born out of the wedlock of the petitioner-husband and the informant-wife. But despite such truth, the petitioner-husband and his family members are subjecting the informant to cruelty and they ousted her from the matrimonial home and presently she is living with her parents along with her child.

8. From perusal of the written report of the informant, it appears that there is no specific allegation of physical assault with reference to date, place and time and nature of assault. The marriage is not working between the petitioner-husband and the informant-wife on account of mistrust. In fact, they are required to move before the Family Court to resolve their matrimonial disputes, i.e., for restitution of conjugal right as well as maintenance to her and her child or any other matrimonial relief.

9. Considering the nature of the allegation and the fact that the maximum punishment for alleged offence is upto three years, this application is allowed, directing the petitioner, above named, to be enlarged on bail in the event of his arrest or



surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Additional Chief Judicial Magistrate-IV, Bhojpur at Ara in connection with Sikarhatta P.S. Case No. 106 of 2023, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and the following conditions:

(i) In case, it is brought to the notice of the court below that the petitioner has given wrong statement regarding his criminal antecedent, Ld. Court below shall cancel the bail bond of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedent despite his knowledge of the same.

(ii) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. Court below shall cancel the bail bonds of the petitioner.

(Jitendra Kumar, J.)

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