

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44784 of 2024

Arising Out of PS. Case No.-787 Year-2023 Thana- KATIHAR COMPLAINT CASE
District- Katihar

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Nazaf Alam @ Nazat Azam @ Nazad Alam Son Of Late Sikander Resident
Of Village - Singhol, P.S. - Azam Nagar, District - Katihar

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Gullfesha Khatoon Wife Of Nazam Alam Resident Of Village - Daniha, P.S.
- Azam Nagar, District - Katihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Helal Ahmad, Advocate
For the State	:	Mr. Ram Anurag Singh, APP
For the O.P. No.2	:	Mr. Pawan Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

4 17-12-2024 Heard Ld. counsel for the petitioner and Ld. APP for
the State.

2. The present petition has been filed on behalf of the petitioner, apprehending his arrest, in connection with Complaint Case No. 787 of 2023 dated 09.05.2023, filed for the offences punishable under Sections 498A, 406 and 323/34 of the Indian Penal Code.

3. As per the allegation, after 15 years of marriage and after birth of three children, there was demand for money to construct a house and thereafter Rs.50,000/- was paid by the complainant/wife. Thereafter, there was again additional demand of dowry and on account of non-fulfillment of the



same, the complainant/wife has been subjected to beating and abusing. She has also stated in her statement under Section 200 of Cr.PC that she wants to go back to her matrimonial home.

4. Ld. counsel for the petitioner submits that the Petitioner is innocent and has falsely been implicated in this case. He further submits that as a matter of fact, his wife/complainant developed adulterous relationship with unknown man and when he objected to it, she deserted him and started live at her *maike* and she has filed false criminal case implicating not only him but even his other family members. He also submits that maximum punishment prescribed for the alleged offence is three years.

5. 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.

6. It has further been stated in paragraph no.3 of the petition that the petitioner has no criminal antecedent.

7. However, Ld. APP for the State as well as learned counsel for the complainant/O.P. No.2 vehemently opposed the prayer of the Petitioner for bail submitting that on account of cruelty, she is living at her *maike*. He also submits that she has filed a maintenance case before the Family Court and there is



order of interim maintenance but the petitioner is not paying the same to complainant/wife.

8. I consider the submissions advanced by both the parties and perused the material on record.

9. It appears that marriage is not working on account of suspicion and hence, marriage is running in rough weather. It further appears that proper remedy for the parties is to move the Family Court to resolve their matrimonial disputes. Moreover, the maximum punishment prescribed for the alleged offence is 3 years.

10. Accordingly, **this petition 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/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Judicial Magistrate-Ist Class, Katihar in connection with Complaint Case No. 787 of 2023, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and on the following conditions:

(i) In case, it is brought to the notice of the court below that the petitioner has criminal antecedents other than the



disclosed one, Ld. court below shall cancel the bail bonds of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents 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.

11. At this stage, learned counsel for the O.P. No.2 is unnecessarily making argument that this Court should give direction for payment of maintenance.

12. I am cautioning the counsel please do not argue further, order has been given. This Court has no jurisdiction to give any maintenance in bail proceeding.

(Jitendra Kumar, J.)

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