

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41152 of 2023

Arising Out of PS. Case No.-338 Year-2022 Thana- COMPLAINT CASE District- Lakhisarai

VIVEK RAJ @ RANJEET KUMAR Son of Uma Saw Resident of Mohalla -
Mahatma Gandhi Road, Ward No.- 27, Naya Bazar, Lakhisarai, P.S.- Kabaiya,
Lakhisarai, District - Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Gita Kumari @ Sita Devi Wife of Bablu Saw Daughter of Rajendra Saw, At Residing at C/O Anil Kumar @ Ashok Modi, At Punjabi Mohalla, Ward No.- 15, P.S.- Lakhisarai, District - Lakhisarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Verma, Advocate Mr. Suman Kumar Verma, Advocate Mr. Anish Kumar, Advocate
For the Opposite Party/s	:	Ms.Suman Kumari Singh, APP
For the Railway	:	Mr. Ram Tujabh Singh, CGC

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

9 09-08-2024 Heard learned counsel for the petitioner, learned A.P.P.

for the State and learned counsel for the opposite party no.2 and

the Railways.

2. A counter affidavit has been filed on behalf of the railways wherein it has been specifically pleaded that petitioner had nominated the opposite party no.2 and the children as his nominee, on which the learned counsel appearing on behalf of the opposite party no.2 submits that this amply demonstrates that petitioner had married the opposite party no.2 and out of the wedlock the children were born, on which the learned counsel appearing on behalf of the petitioner submits that what is not in



dispute, rather stands admitted is that O.P. No.2 herself claims that she was married from before and it is not the case of O.P. No.2 that she married the petitioner after divorcing her first husband, as such when first marriage was subsisting even if O.P. No.2 married the petitioner, the said marriage would be a void marriage, on which the learned counsel appearing on behalf of the opposite party no.2 fairly submits that the said contention cannot be disputed, but then submits that the children born out of the relationship in between the petitioner and the O.P. No.2 cannot be left in lurch. The learned counsel appearing on behalf of the opposite party no.2 further submits initially the petitioner was not accepting that O.P. No.2 and the children were his nominees, now when the railways has filed a counter affidavit it becomes clear that petitioner initially was trying to mislead the Court for the purposes of obtaining anticipatory bail. The said submissions of the learned counsel appearing on behalf of the O.P. No.2 is not rebutted by the learned counsel appearing on behalf of the petitioner, but then a frivolous plea that the O.P. No.2 has not disclosed the date of marriage in the FIR, but then the learned counsel appearing on behalf of the O.P. No.2 submits that in the counter affidavit it has been specifically pleaded that the O.P. No.2 married the petitioner in the year



2008 and out of the said relationship children were born.

3. Be that as it may, since initially the petitioner was trying to mislead the Court for the purposes of obtaining anticipatory bail by making a submission that O.P. No.2 and the children were not his nominees and further has left the children in lurch to fend for themselves, as such the Court is not inclined to extend the privilege of anticipatory bail to the petitioner, accordingly, the anticipatory bail application is rejected.

(Satyavrat Verma, J)

Prakash Narayan

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