

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51825 of 2023

Arising Out of PS. Case No.-852 Year-2018 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

VISHAL SHAH S/O LATE BINAY KUMAR SHAH R/O 64/65, Shree Arobindo Road, Rakhi Cinema Complex, 2nd Floor, P.S- Golabari Road, Salkia Banda Ghat, Howrah, Distt.- Howrah, West Bengal. Current Address- 816 W Royal Ln Irving, Texas, 75039 United State of America. Mob- 410-940-9992

... .. Petitioner/s

Versus

1. The State of Bihar
2. Smt. Monalisha Gupta W/O Vishal Shah, D/O Bachan Prasad, R/O 64/65, Shree Arobindo Road, Rakhi Cinema Complex, 2nd Floor, P.S - Golabari Road, Salkia Banda Ghat, Howrah, Distt.- Howrah, West Bengal.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gaurav Prakash, Advocate Mr. Amit Kumar Pandey, Advocate
For the State	:	Mr. Ajit Kumar, A.P.P.
For the O.P. No. 2	:	Mr. Bimlesh Kumar Pandey, Advocate Mr. Krishnakant Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 09-09-2024 1. Heard learned counsel for the petitioner, learned A.P.P. for the State and learned counsel appearing on behalf of the opposite party no. 2.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 498A, 307, 506, 406, 323 and 324 of the Indian Penal Code as well as Sections 3 and 4 of the Dowry Prohibition Act.

3. Learned counsel for the petitioner submits that petitioner, being the husband, has been falsely implicated in the present case by the opposite party no. 2. It is further submitted



that relationship in between the petitioner and the opposite party no. 2 has deteriorated to an extent where it is not possible to revive the conjugal relationship. It is next submitted that opposite party no. 2 altogether has filed more than eleven cases against the petitioner. It is also submitted that a case was filed by the opposite party no. 2 before the DV Court in which the learned DV Court directed the petitioner to pay a monthly maintenance of Rs.30,000/- w.e.f. 28.08.2018. It is further submitted that petitioner has filed an appeal against the order passed by the learned DV Court which is pending adjudication in the Court of learned District Judge, Muzaffarpur.

4. Learned counsel fairly submits that the arrear which has mounted in terms of the order passed by the learned DV Court as of date is nearly Rs.21 lakhs but then the order is challenged in appeal as recorded hereinabove.

5. Learned counsel for the petitioner further submits that petitioner, being husband, is aware of his responsibility and is willing to pay a monthly maintenance of Rs.15,000/- to the opposite party no. 2 which shall commence from 23.09.2024. It is further submitted based on instruction that if the appeal before the learned District Judge, Muzaffarpur fails against the order of the learned DV Court, the petitioner will make the payment of



the entire arrears but then it is submitted that in that event petitioner will have to pay a monthly maintenance of Rs.45,000/- i.e. Rs.30,000/- passed by the learned DV Court and Rs.15,000/- as accepted by the petitioner before this Court for the purposes of anticipatory bail.

6. Learned counsel appearing on behalf of the opposite party no. 2 based on instruction submits that opposite party no. 2 intends to reconstitute her conjugal rights but then parties are litigating. It is further submitted that no useful purpose would be served by sending the petitioner to jail as opposite party no. 2 as submitted is interested in reviving her conjugal relationship. It is next submitted that since the petitioner is willing to pay a monthly maintenance of Rs.15,000/- as such the anticipatory bail of the petitioner is not being objected. It is also submitted that the bank account of the opposite party no. 2 shall be WhatsApped on the WhatsApp number of the learned counsel appearing on behalf of the petitioner and the learned counsel appearing on behalf of the petitioner undertakes to communicate the same to the petitioner so that the monthly maintenance as agreed commences from 23.09.2024.

7. Considering the submissions made by the learned



counsel for the petitioner, let the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Trial No. 2919 of 2018 arising out of Complaint Case No. 852 of 2018, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

8. However, it is made clear that if the petitioner does not pay the monthly maintenance of Rs.15,000/- as agreed for two consecutive months, in that event, the opposite party no. 2 shall be at liberty to file an application before this Court seeking cancellation of the anticipatory bail granted to the petitioner. It is further made clear that if the appeal fails before the learned District Judge against the order of the learned DV Court and the petitioner clears the arrear and starts paying Rs.30,000/- by way of maintenance in that event, the present maintenance shall stop. It is also made clear that since petitioner before this Court has made a categoric submission that if the appeal against the order of the learned DV Court fails before the learned District Judge,



Mujaffarpur in that event, he will clear the arrears and will start paying Rs.30,000/- by way of maintenance is breached in that event also the opposite party no. 2 shall be at liberty to file an application seeking cancellation of the anticipatory bail granted to the petitioner but it is categorically made clear that if the appeal before the learned District Judge, Muzaffarpur against the DV Court order fails and the petitioner clears the arrears and starts paying the maintenance of Rs.30,000/- in that event, the present maintenance shall stop.

(Satyavrat Verma, J)

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