

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47089 of 2024

Arising Out of PS. Case No.-2112 Year-2023 Thana- COMPLAINT CASE District- Araria

Md. Shakhib @ Muhammad Saqib @ Saqib Son Of Md. Zafir Alam @
Muhammad Zafar Alam @ Zafir Alam Village- Koshidpur Charghariya Tola,
P.S.- Araria, Distt.- Araria

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nida Jawed Wife Of Md. Shakhib @ Muhammad Saquib R/O- Koshidpur Charghariya Tola, P.S.- Araria, Distt.- Araria, At Present Nida Jawed, D/O- Javed Eqwal, R/O- Koshidpur Charghariya Tola, P.S.- Araria, Distt.- Araria

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Pramod Kumar Singh, Advocate
	:	Mr. S. P. Sing, Advocate
For the State	:	Mr. Abhay Kumar, APP
For O.P. No. 2	:	Md. Naushad Uzzoha, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

4 26-10-2024 Heard learned counsel for the petitioner and learned

APP for the State as well as learned counsel for the Opposite

Party No. 2.

2. The present petition has been filed on behalf of the petitioner, apprehending his arrest, in connection with Complaint Case No.-2112 of 2023 filed for the offences punishable under Sections 498(A) and 379/34 of the Indian Penal Code, but after inquiry cognizance has been taken under Sections 323, 379, 504 and 498(A) of the Indian Penal Code.

3. As per allegation, the petitioner/husband has subjected the complainant/wife to cruelty after marriage on



account of non-fulfillment of demand of dowry.

4. Learned counsel for the Petitioner submits that the Petitioner is innocent and has falsely been implicated in this case. He further submits that he is ready to keep his wife with himself but she is not willing to live with him.

5. Ld. Counsel for the O.P. No. 2/wife submits that the petitioner/husband is not keeping her in the matrimonial home. She also submits that the petitioner has solemnized second marriage and it is not possible for her to live with the second wife of the petitioner. He is falsely claiming in the court below that he has divorced his wife but there is no divorce even *thainmehar* has not been given to her.

6. Perused the material on record and considered the submissions advanced on behalf of both the parties.

7. From the submission of the parties, it appears that the marriage is not working between them and remedy for both the parties to Family Court and they must go to the Family Court for getting matrimonial relief. This case appears to have instituted on account of non-functioning of the marriage with intent to harass the husband.

8. 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.

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

10. However, learned APP for the State as well as learned counsel for the O.P. No. 2 vehemently oppose the prayer of the Petitioner for bail.

11. Considering the aforesaid facts and circumstances, **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 Sri Uday Veer Singh, learned Judicial Magistrate-1st Class, Araria, in connection with Complaint Case No.-2112 of 2023, subject to the conditions as laid down under Section 438 (2) Cr.PC 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, learned court below shall cancel the bail bonds 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, learned court below shall cancel the bail bonds of the petitioner.

(Jitendra Kumar, J.)

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