

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49875 of 2024

Arising Out of PS. Case No.-78 Year-2024 Thana- RAJPUR District- Buxar

Bihari Rai son of Late Parikhan Rai @ Late Ram Parikhan Rai @ Ram Parikhan R/o village- Nanaura Ps- Rajpur Dist- Buxar

... .. Petitioner

Versus

1. The State of Bihar
2. Fulwa Devi wife of Bihari Rai R/o Village- Nanaura P.S- Rajpur P.O- Hethua Dist- Buxar, P/A- Lalganj Karwi P.S.- Dumraon Dist- Buxar

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Anil Kumar Roy, Advocate
For the State	:	Ms. Rita Verma, APP
For the O.P. No-2	:	Mr. Vikas Kumar Shukla, Advocate Mr. Amit Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 18-12-2024 Heard Ld. counsel for the petitioner, Ld. APP for the State and Ld. Counsel for the O.P. No.2.

2. The petitioner seeks bail, apprehending his arrest, in connection with Rajpur P.S. Case No.78 of 2024, registered for the offences punishable under Section 498(A) of the Indian Penal Code.

3. As per allegation, after forty years of marriage, the informant/victim has been subjected to cruelty and ousted from the matrimonial home and the accused/husband who is the petitioner herein, has also entered into the second marriage with one Geeta Devi.

4. Ld. counsel for the petitioner submits that the



Petitioner is innocent and has falsely been implicated in this case. He further submits that mutually they have agreed to get separated and re-marry, and hence, the informant left her matrimonial home and re-married with one Sawanroo Roy @ Sauru Ray. The husband has also entered into second marriage with one Geeta Devi. However, after his retirement from government job, the informant has developed greed for money, and hence, this false case has been lodged. Section 494 dealing with second marriage is bailable and maximum punishment provided under Section 498A 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.2 of the bail petition that the petitioner has no criminal antecedents.

7. However, Ld. APP for the State and Ld. Counsel for the O.P No-2 oppose the prayer of the Petitioner for bail submitting that O.P. No.2 is legally wedded wife and she has never re-married and as a matter of fact, she has been subjected to cruelty by the husband and she has been ousted from the matrimonial home. He further submits that he is not maintaining her nor is he taking her to his matrimonial home and he is also



not appearing in the maintenance case bearing No. 12M of 2022, pending in Ld. Family Court, Buxar.

8. From the facts and circumstances of the case and rival submissions of the parties, it appears that there is a matrimonial discord between the parties and it is better for the parties to move family court to resolve their dispute regarding maintenance or to get any other matrimonial relief.

9. 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 Ld. S.D.J.M, Buxar, in connection with Rajpur P.S. Case No.78 of 2024, 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 any criminal antecedents, 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.

(Jitendra Kumar, J.)

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