

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47297 of 2023

Arising Out of PS. Case No.-197 Year-2022 Thana- GAYA KOTWALI District- Gaya

Md. Ashhar Noor @ Ashhar Noor, Son Of Noor Mohammad Resident Of Village-Chinakuri 3 No. Masjid Para, Kulti, P.S.-Kulti, District-Bardhaman (West Bengal)

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Fariya Jabi Daughter Of Md. Jamaluddin, Wife Of Md. Ashhar Noor @ Ashhar Noor Resident Of Panchaitiya Akhara, P.S.-Kotwali, District-Gaya

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Satya Prakash Parasar
For the Opposite Party/s :	Mr. Shahabuddin Azeem @ S. Azeem
	Mr. Kunal Tiwary
	Mr. Aniket Singh
	Mr. Anupam Raj
	Mr. Gauhar Ali

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 24-09-2024 1. Heard learned counsel for the petitioner, the learned counsel appearing on behalf of the informant and learned APP for the State.

2. The petitioner seeks bail in anticipation of his arrest in a case registered for the offences punishable under Sections 341, 323, 504, 379, 498(A) of the Indian Penal Code and Sections 3 and 4 of the D. P. Act.

3. The learned counsel for the petitioner submits that the case was taken up on 18.03.2024, when opposite party no.2 accompanied the petitioner to her matrimonial home. The



learned counsel for the petitioner submits that petitioner is working with Cognizant Company at Kolkata, while his parents stays at Asansol. It is next submitted that the parents of the petitioner are old and ailing and petitioner on account of his profession is not in a position to stay at Asansol all the time, but then, when he was not staying with the opposite party no.2, he was managing to take care of his parents, but after the opposite party no.2 accompanied him, thereafter he dropped her at Asansol with her parents, so that his aged parents could be looked after well. It is further submitted that petitioner used to come on every weekend to Asansol to meet the opposite party no.2, and his parents, but then, it appears that some differences arose and in absence of the petitioner and his parents, the opposite party no.2 left her matrimonial home. It is also submitted that petitioner immediately rushed to the concerned police station informing that the opposite party no.2 without informing him and his parents has left the matrimonial home.

4. The learned counsel appearing on behalf of the opposite party no.2 submits that no doubt, opposite party no.2 had accompanied the petitioner, but then, petitioner instead of taking her to Kolkata dropped her at Asansol. It is next submitted that the petitioner also was not giving any money to



the opposite party no.2 for her expenses and in support of the same, relies on some whatsapp chat, which has been annexed in the supplementary counter-affidavit. It is further submitted that though petitioner took the opposite party no.2 back to her matrimonial home, but then, it was only under pressure of the Court and not on his own sweet-will. It is also submitted that from perusal of the whatsapp chat in between the petitioner and the opposite party no.2, it would manifest that opposite party no.2 all the time was hankering before the petitioner to give her money for expenses, but the petitioner instead of sending the money always asked her to wait for his arrival. It is further submitted that petitioner and her parents went to attend a marriage leaving her all alone in the matrimonial home at Asansol, as such, the opposite party no.2 came back to her parental home.

5. The learned counsel for the petitioner submits that petitioner has his own story to tell while opposite party no.2 has hers, but then, it is submitted that no useful purpose would be served by sending the petitioner to jail as petitioner is willing to pay a monthly maintenance of Rs.15,000/- (Fifteen Thousand) to the opposite party no.2, which shall commence from 01.10.2024, on which the learned counsel appearing on behalf



of the opposite party no.2 also submits that since petitioner is willing to pay a monthly maintenance of Rs.15,000/-, as such, no useful purpose would be served by sending him to jail. It is also submitted that if petitioner is sent to jail the chances of future reconciliation, if any, will get marred.

6. At this stage, the learned counsel appearing on behalf of the petitioner also concurs with the said submission of the learned counsel appearing on behalf of the opposite party no.2 and submits that may be with passage of time and on intervention of well-wishers, the parties may resolve their dispute amicably.

7. The learned counsel for the opposite party no.2 submits that he will whatsapp the bank account number of the opposite party no.2 on the whatsapp of the learned counsel appearing on behalf of the petitioner and learned counsel for the petitioner undertakes to communicate the same to the petitioner, so that the monthly maintenance, as agreed, commences from 01.10.2024.

8. Learned A.P.P. opposes the anticipatory bail application.

9. Considering the submissions made by the learned counsel for the petitioner, the petitioner, above-named, in the



event of his arrest or surrender before the learned Court below within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Gaya in connection with Kotwali P. S. Case No.197 of 2022, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

10. The application stands allowed.

11. However, it is made clear that the opposite party no.2 shall be at liberty to file an application seeking cancellation of anticipatory bail of the petitioner, in the event, if the petitioner does not pay the monthly maintenance as agreed for two consecutive months.

12. It is further made clear that the present maintenance will stop, the moment maintenance is fixed by a Court of competent jurisdiction.

(Satyavrat Verma, J)

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