

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51402 of 2023**

Arising Out of PS. Case No.-175 Year-2022 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

MD. YAQUB Son of Md. Usman Resident of village - Mishar Tola, Kotwali,
Chowk, P.S. - Town, distt. - Darbhanga

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. Shahjadi Khatoon D/o Md. Phul @ Md. Sagir, Wife of Md. Yaqub Resident of village - Madhopur Susta, P.S. - Maniyari, Distt. - Muzaffarpur, Pin 842002

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Girish Chandra Jha, Adv.
For the Opposite Party/s : Mr. Umanath Mishra, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

3 29-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Vide order dated 19.08.2023, notice was issued to Complainant/ O.P.No. 2, despite validly served notice upon the O.P. No. 2 and the A/D which is kept on record but no one appeared on behalf of the O.P. No. 2.

3. The petitioner is apprehending his arrest in a case in connection with Complaint Case No. 175 of 2022 dated 29.03.2022 registered for the offences punishable u/s 498A of the Indian Penal Code and u/s 3/4 of the Dowry Prohibition Act.

4. As per the prosecution case, the petitioner and the co-accused persons are alleged to have tortured the Complainant mentally and physically due to non-fulfillment of demand of Rs. 2,00,000/- as dowry and ousted her from the matrimonial home.



5. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. There is general and omnibus allegation against the petitioner. It is further submitted that the petitioner is the husband of the Complainant. The petitioner neither demanded any dowry nor tortured the Complainant. It is further submitted that the petitioner has no concern with the alleged offence. The petitioner has relied upon the judgment of this Court in the case of **"Md. Naimul Haque Ansari @ Naimul Haque Ansari & Ors. Vs. The State of Bihar, reported in 2006(3) PLJR 182."** Learned counsel has further submitted that Section 498A of the IPC is triable by the Magistrate. Learned counsel has further relied on the judgments in the case of **Satendra Kumar Antil Vs. Central Bureau of Investigation and Another (2022) 10 SCR 351** and **Md. Asfak Alam Vs. The State of Jharkhand & Anr passed in Criminal Appeal No(s). 2207 of 2023 arising out of Special Leave Petition (CRL.) No. 3433 of 2023**. The petitioner has no criminal antecedent as stated in para 3 of the bail petition.

6. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner.

7. Considering the aforesaid facts and circumstances of the case as well as the allegation being general and omnibus against the petitioner, let the above named petitioner, in the event



of his arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Muzaffarpur (west) in connection with Complaint Case No. 175 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with further condition :-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the prosecution will be at liberty to move for cancellation of his bail bond.

8. If so advised, either of the parties will be at liberty to make an application before the Court below for referring the matter to the District Mediation Centre for the purpose of reconciliation or one time settlement.

9. The application stands allowed.

(Chandra Prakash Singh, J)

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