

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59450 of 2023

Arising Out of PS. Case No.-1207 Year-2021 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

MD. NAUSHAD Son of Md. Abdul Jalil R/o Mohalla - Bhagalpur (Bihar),
presently residing at Room No. 33, Chawl No. 6, Kadariya Nagar, Chembur,
P.L. Lokhande marg, Tilak Nagar, Mumbai Pin 400089

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kaneez Fatima W/o Md. Naushad, D/o Md. Suleman @ Babloo Presently
residing at Sahebganj, Naya Tola, P.O. - Champanagar, P.S. - University,
Distt. - Bhagalpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Madan Mohan
For the Opposite Party/s	:	Mr. Suresh Prasad Singh
For the O.P. No. 2	:	Mr. Rajive Nayan Singh

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 05-04-2024 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 323, 504,
506, 498A and 34 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that the
case was referred for mediation but then the mediation failed. It
is next submitted that petitioner is still willing to keep the O.P.
No. 2 with honour and dignity along with the child but then for
reasons best known, the O.P. No. 2 is not willing to join the
petitioner. It is also submitted that a false case has been



instituted against the petitioner by the O.P. No. 2 alleging that the petitioner gave triple *talaque* to the O.P. No. 2 in the year 2013, but then submits that if petitioner had given triple *talaque* to the O.P. No. 2 in the year 2013 then why she instituted the instant complaint case in the year 2021. It is also asserted and submitted that petitioner never divorced the O.P. No. 2 but since the O.P. No. 2 on her own volition left her matrimonial home, as such, he performed his second marriage, but then marrying the second time is not illegal. It is also submitted that O.P. No. 2 is only interested in maintenance and in not reviving her conjugal relationship.

4. Learned counsel appearing on behalf of the O.P. No. 2 opposes the prayer for anticipatory bail of the petitioner but then is not in a position to rebut the submission of the learned counsel for the petitioner that the instant case came to be instituted 8 years after the allegation of *talaque*, but then the learned counsel submits that O.P. No. 2 has also filed a maintenance case in the Court of learned Principal Judge, Family Court, Bhagalpur in which the petitioner is not appearing, on which he learned counsel for the petitioner submits that petitioner now has become aware of the pendency of the maintenance case and he will appear in the said case on



the next date fixed.

5. 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 trial court 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 trial court where the case is pending/successor court in connection with Complaint Case No. 1207 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

6. However, it is made clear that the O.P. No. 2 shall be at liberty to file an application before this Court seeking cancellation of the anticipatory bail granted to the petitioner in the event if the petitioner does not appear in the maintenance case on the next date fixed.

(Satyavrat Verma, J)

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