

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60134 of 2024

Arising Out of PS. Case No.-1381 Year-2018 Thana- NAWADAH COMPLAINT CASE
District- Nawada

Md. Shamsheer Alam @ Shamsheer Alam, Son of Md. Sarfuddin Haque, R/o
Village- Gaida, P.S. Bishnugarh, District- Hazaribagh, (Jharkhand)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anjun Perween, Daughter of Md. Shabbir, Wife of Md. Shamsheer Alam,
R/O Vill.- Gaida, P.S.- Bishnugarh, Dist.- Hazaribagh, Jharkhand. At Present
R/at Bhadauni, Phulwarisharif, P.S. and Dist.- Nawada

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Advocate Mr. Birendra Kumar, Advocate Ms. Kumud Kishore, Advocate
For the Opposite Party/s	:	Mr. Damodar Prasad Tiwary, APP
For the Informant	:	Mr. Shankar Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 31-08-2024 Heard Mr. N.K. Agarwal, learned Senior Advocate

with Mr. Virendra Kumar, learned Advocate appearing on behalf
of the petitioner and Mr. Damodar Prasad Tiwary, learned
Additional Public Prosecutor for the State. The complainant
appears through Mr. Shankar Kumar, learned Advocate.

2. The application for grant of bail to the petitioner
who is in custody in connection with Complaint Case No. 1381
of 2018 registered for the offences punishable under Sections
498(A) of the Indian Penal Code and Section 3/4 of the Dowry
Prohibition Act.

3. Based upon the written report the prosecution
alleges that the marriage of the petitioner was solemnized with
the opposite party no. 2 in the year 2012. After the marriage she



was subjected to demand of dowry and torture, resulting into lodging of the complaint case, wherein the cognizance has been taken for the offences as stated above on 20.01.2022, by the learned jurisdictional Court.

4. Learned Senior Advocate appearing on behalf of the petitioner contended that the marriage was solemnized in the year 2012 and the couple blessed with three children and they are studying in a reputed school. It is further contended that the entire allegation of demand of dowry and torture appears to be concocted for the simple reason that several valuable lands were transferred in the name of the opposite party no. 2 and the bank account, which is in the name of the opposite party no. 2, there is still an amount of Rs. 37,98,978.80/-. The petitioner by religion a Muslim under his personal law has the right to have four wives. He also undertakes that he is ready to maintain his wife. It is also contended that now in a case of Section 498A where the Supreme Court has given guidelines in the case of *Arnesh Kumar vs. The State of Bihar & Anr.* and *Naushad Alam vs. The State of Bihar* the petitioner is languishing in custody.

5. On the other hand, learned Additional Public Prosecutor for the State, as well as Advocate appearing on behalf of the complainant vehemently opposed the bail



application and submits that irrespective of the fact that the petitioner belongs to Muslim community and, as such, he has the right to have four marriages, but this is not the case; all the wives are subjected to torture and two cases of identical nature have been filed by second and third wife also. It is next contended that the petitioner is not taking care of the wife and she is in destitution and penury.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the complaint was instituted way back in the year 2018 and now the cognizance has been taken in the year 2022 and the petitioner has been incarcerated since 12.06.2024, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of Sub Divisional Judicial Magistrate in connection with Complaint Case No. 1381 of 2018, subject to the undertaking that the petitioner shall pay an amount of Rs. 10,000/- per month, till the final settlement is made between the parties, in presence of the well wishers or by the Court. The aforesaid amount shall be deposited in the first week of every month, in the bank account number, which shall be provided by the complainant. The first installment shall be started by the first week of September, 2024. There shall also be



a condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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