

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.60219 of 2023

Arising Out of PS. Case No.-1380 Year-2019 Thana- DARBHANGA COMPLAINT CASE
District- Darbhanga

MD. HASSAN Son of Md. Reyaz @ Punne R/o vill - Kharua, P.S. - Sadar
(Bhalpatti O.P.), Distt. - Darbhanga

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. SABIHA CHAMAN Wife of Md. Hassan, D/o Md. Mohiuddin R/o vill - Seema, P.S. - Sakri, distt. - Madhubani

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P.K. Jha Mr. Rajesh Kumar Jha Ms. Meenakshi Priya
For the Opposite Party/s :		Ms. Veena Kumari Jaiswal
For the O.P. No. 2	:	Mr. Saurav Anand

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 07-08-2024 1. Heard learned counsel for the petitioner, learned
A.P.P. for the State and the learned counsel appearing on behalf
of the O.P. No. 2.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 323, 498A
and 34 of the Indian Penal Code read with Sections 3 and 4 of
the Dowry Prohibition Act.

3. Learned counsel for the petitioner submits that
petitioner, being husband, has been falsely implicated in the
instant case by the informant. It is also submitted that petitioner
is willing to restitute his conjugal rights and intends to keep the
O.P. No. 2 and the child with honour and dignity.

4. The learned counsel appearing on behalf of the O.P.
No. 2 submits that if the petitioner really intended to keep the



O.P. No. 2 and the child with honour and dignity, in that event the petitioner would not have cast aspersion on the character of the O.P. No. 2 that she has performed her second marriage. It is further submitted that only for the purposes of seeking anticipatory bail, the said false submission is being made. The learned counsel further submits that O.P. No. 2 had filed Maintenance Case No. 206 of 2019 in the Court of learned Principal Judge, Family Court, Darbhanga in which notices were issued on the petitioner and the notices were received by the father of the petitioner, as such, it was deemed to be validly served, but the petitioner did not appear as such, the learned Principal Judge, Family Court, Darbhanga by an order dated 05.11.2022 was constrained to pass an *ex-parte* order of maintenance directing the petitioner to pay a monthly maintenance of Rs. 9,000/- to the O.P. No. 2 and Rs. 6,000/- to the child, as such, petitioner was directed to pay an amount of Rs. 15,000/-, but petitioner till date has not paid a single penny to the O.P. No. 2 and the child, as such, one can well imagine the plight with which the O.P. No. 2 and the child is beseeched in absence of any financial support.

5. The learned counsel for the petitioner submits that the order of maintenance was *ex-parte* and he has filed an



application seeking to recall the order of maintenance, it is also submitted that petitioner will contest the maintenance case as the maintenance has been fixed in excessive, but then it is also submitted that petitioner is willing to pay a monthly maintenance of Rs. 7,000/- to the O.P. No 2 and the child which shall commence from 19.08.2024.

6. The learned counsel appearing on behalf of the O.P. No. 2 submits that no useful purpose would be served by sending the petitioner to jail as he is willing to pay a monthly maintenance of Rs. 7,000/- to the O.P. No. 2 and the child and also submits that the O.P. No. 2 will also contest the maintenance case.

7. Learned counsel for the O.P. No. 2 also submits that he will *Whatsapp* the bank account number of the O.P. No. 2 on the *Whatsapp* number of the learned counsel appearing on behalf of the petitioner and the learned counsel appearing on behalf of the petitioner undertakes to communicate the same to the petitioner so that the monthly maintenance, as agreed, commences from 19.08.2024.

8. 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. 1380 of 2019 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

9. 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 deposit the amount of monthly maintenance, as agreed, for two consecutive months.

10. It is further made clear that in the event if the maintenance case is finally decided by a Court of competent civil jurisdiction, in that event the present maintenance will stop.

11. Accordingly, the instant anticipatory bail application stands allowed.

(Satyavrat Verma, J)

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