

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63529 of 2023

Arising Out of PS. Case No.-356 Year-2021 Thana- BEUR District- Patna

Upendra Vishakarma @ Upendra Mistri Son Of Shambhu Vishwakarma @
Shambhu Mistri Resident Of Village - Kamalpur, P.S. - Goviindpur, District -
Nawada

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Moni Kumari D/O. Indradeo Vishwakarma Resident Of Village - Vidhanagar
Beur Part-2, P.S. - Beur, P.O. - Anishabad, District - Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shovendra Kumar, Adv.
For the Opposite Party/s	:	Mr. Humayou Ahmad Khan, APP
For the Informant	:	Mr. Chandra Mohan Jha, Adv.

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

5 05-04-2024 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

2. Vide order of this Court dated 06.12.2023, the instant petition for anticipatory bail was referred to Patna High Court Mediation Centre in order to explore the feasibility of amicable reconciliation between the parties. Thereafter, the mediation proceeding took place and report dated 01.02.2024 of the said Mediation Proceeding bearing no. 63529 of 2023 reveals the fact that even after best and sincere efforts the dispute between the parties could not be resolved, hence the mediation failed. Since the mediation has failed, the matter has again come up before the Bench seeking anticipatory bail.



3. The petitioner apprehends arrest in connection with Beur PS Case No. 356 of 2021, dated 15-08-2021, instituted for the offence punishable under Sections 341, 323, 498A, 504, 506 & 34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

4. The prosecution case, in short, is that the marriage of the informant was solemnized with the petitioner on 26-05-2021. After marriage, the informant came to know about illegal connection of her husband with several other girls. It is further alleged that after few months of her marriage, cancer was detected in her ovary and, ultimately, ovarian surgery was conducted and her ovary was removed in presence of her husband. Thereafter, the petitioner just after her discharge from hospital came with her at her parental home and on very next day he left her without any information. She further alleged that all family members and her husband demanded cash of Rs. 5 lakhs and two wheeler motorcycle and on non-fulfillment, they had tortured her physically and mentally.

5. Learned counsel for the petitioner submits that petitioner is innocent and he has been falsely implicated in this case. It is further submitted that just after marriage, the informant started creating problems and never respected any in-



laws of the family. She severally cut her wrist and given threat to lodge false case against them. The petitioner is husband of the informant and he is ready to keep his wife with full honor and dignity.

6. The learned counsel for the informant and learned APP for the State have vehemently opposed the prayer for bail. It is submitted that there is specific allegation against the petitioner of torturing and assaulting the informant physically and mentally. Petitioner, being husband, cannot absolve from his responsibilities in respect of the informant.

7. From the order dated 13-09-2022, passed by the learned Additional Sessions Judge- XIV, Patna, rejecting the petitioner's prayer for anticipatory bail, it is apparent that within few months of her marriage cancer was detected in her ovary and, ultimately, ovarian surgery was conducted and her ovary was removed. When enquired from the petitioner about the aforesaid facts, he confirmed that informant cannot become mother. When court informed him that she can become mother through IVF technique or even an Orphan child can be adopted to which he blatantly refused and stated that he cannot adopt others child. He also flatly refused to take the informant with him to his house. This court tried to convince the petitioner that



any diseases and outcome of the same cannot be a ground or justification to desert the informant. However, the petitioner was found adamant and he clearly expressed his view that he is not going to take the informant to his house at any cost.

8. Considering the facts and circumstances of the case and conduct of the petitioner, who is husband of the informant, I am not inclined to grant anticipatory bail to the petitioner. Therefore, present anticipatory bail application filed on behalf of the petitioner Upendra Vishakarma @ Upendra Mistri is hereby, rejected.

9. However, if the petitioner surrenders before the learned court below within six weeks and prays for regular bail, the same shall be considered and disposed of on its own merit without being prejudiced by this order.

10. Interim protection granted to the petitioner by order dated 07-10-2023 and 06-12-2023 stands vacated.

(Khatim Reza, J)

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