

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63901 of 2023

Arising Out of PS. Case No.-338 Year-2023 Thana- BELAGANJ District- Gaya

Md Sahnabaz @ Md Shahnawaz S/O Late Md. Nazir R/O Village- Nimchak,
Ps. Belaganj, Dist. Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Tamana Praween W/O Md. Sahnawaz, D/O Late Hafiz Shairu Zama R/O Village- Nimchak, Ps. Belaganj, Dist. Gaya, At Present Residing Nadraganj, Ps. Civil Line, Dist. Gaya

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Deepak Kumar, Advocate
For the Opposite Party/s	:	Mr. Dr. Kumar Uday Pratap, APP
For the Informant	:	Mr. Sanjay Kumar Tiwari, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 27-02-2024 Heard Mr. Deepak Kumar, learned counsel for the petitioner, Mr. Sanjay Kumar Tiwari, learned counsel appearing on behalf of the Opposite Party No. 2 as well as and Mr. Dr. Kumar Uday Pratap, learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Belaganj P.S. Case No. 338 of 2023, F.I.R. dated 25.05.2023 for the offences punishable under Sections 494, 498A/34 of the Indian Penal Code.

3. According to prosecution case, all the accused persons including the petitioner thrashed the informant and ousted her from their house. It is further alleged that the



petitioner also performed second marriage.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offences as alleged in the F.I.R. In fact, the petitioner has filed matrimonial case bearing M.T.S. Case No. 100 of 2021 for restitution of conjugal rights on 10.03.2021 and when the Opposite Party No. 2 received the notice about the said case, she filed the present F.I.R. on 25.05.2023.

5. Learned counsel for the petitioner further submits that the Opposite Party No. 2 denied to live with the petitioner, therefore, he has filed matrimonial suit for restitution of conjugal rights and despite of that she was not ready to live with the petitioner and thereafter, the petitioner has performed second marriage on 23.05.2023 and he is ready to keep the Opposite Party No. 2 at his native place with his parents but the Opposite Party No. 2 is not ready to live with the parents of the petitioner.

6. Vide order dated 20.12.2023 the matter was referred to mediation center for settlement of dispute between the parties. Report of learned Mediator dated 06.02.2024 reveals



that the dispute between the parties could not be resolved through the process of mediation.

7. The learned counsel appearing on behalf of the Opposite Party No. 2 as well as learned Additional Public Prosecutor have vehemently opposed the prayer for bail of the petitioner and submits that the Opposite Party No. 2 is ready to live with the petitioner but the petitioner is not ready to keep the Opposite Party No. 2 as he has already performed marriage on 23.05.2023.

8. Considering the aforesaid facts and circumstances, let the petitioner, above named, in the event of arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Gaya in connection with Belaganj P.S. Case No. 338 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

i. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and



on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that 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 step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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