

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68392 of 2023

Arising Out of PS. Case No.-786 Year-2019 Thana- BUXAR COMPLAINT CASE District-
Buxar

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DHRUV OJHA @ DHRUV KUMAR OJHA Son of Late Brij Bihari Ojha R/o
vill - Ojha Baraon, P.s. - Murar, Dist. - Buxar 802127

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Meena Devi W/o Dhruv Ojha R/o Ojha Baraon, P.S. - Murar, Distt. - Buxar,
Present R/o D/o Late Jagdish Pandey, Vill and P.s. - Brahmapur, Distt.-
Buxar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Ms. Mayuri, Advocate.
For the State	:	Mr. Rajesh Kumar, APP
For the Opposite Party No. 2	:	Mr. Tribhuwan Narayan, Advocate.

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL ORDER

3 27-02-2024 Heard Ms. Mayuri, Ld. counsel for the petitioner, Mr.

Rajesh Kumar, Ld. APP for the State and Mr. Tribhuwan Narayan,

Ld. counsel for the Opposite Party No. 2.

2. The petitioner apprehends his arrest in connection with

Complaint Case No. 786 (C) of 2019 dated 29.7.2019 registered for

the offence punishable under Section 498-A of the Indian Penal

Code.

3. The prosecution case as emerges from the Complaint

petition is that the complainant/Opposite Party No. 2 was married to

the petitioner in the year 1994 and out of their wedlock, she was

blessed with a female child who is now a student of B.A. first year.

After marriage, she lived in her *sasural* happily for two year. It is

alleged that petitioner has remarried in the year 2000 to one Gudiya

Devi and thereafter the petitioner started torturing the



complainant/Opposite Party No. 2 and finally ousted her on 29.7.2019 and at present she is living at her parental home.

4. Ld. counsel for the petitioner submits that the Petitioner is innocent and has falsely been implicated in the present case. She further submits that the petitioner was never married with the Complainant (Opposite Party No. 2). The whole allegation has been made to extract money from the petitioner which is apparent from the statement of inquiry witness No. 3 who states that if the petitioner is ready to maintain the complainant and gives expenses for complainant's daughter, the case may be compromised. She further submits that from the perusal of the statement of the complainant during enquiry before the Ld. Magistrate, the allegation against the petitioner is general and omnibus in nature. There is no specific allegation of cruelty and torture against the petitioner. She further submits that there is no other litigation other than the present one between the petitioner and the complainant (wife) either in the Criminal Court or any Civil Court or Family Court. This fact speaks in volumes regarding falsity of the allegation which has been made for extracting money from the petitioner.

5. It has also been stated in paragraph no. 3 of the bail petition that the petitioner has no criminal antecedent.

6. It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier either for anticipatory bail or regular one in the instant case.



7. On the other hand, Ld. APP as well as Ld. counsel for the Opposite Party No. 2 vehemently oppose the prayer of the petitioner for anticipatory bail saying that the complainant is legally wedded wife of the petitioner and there is also one daughter out of their wedlock. On account of goodwill, she did not file any complaint either before the Police or before the Family Court. In the meantime, the petitioner was occasionally giving some money also for maintenance.

8. Considering the submission advanced by both the parties and perusal of the material on record, it transpires that the alleged marriage has been solemnized in the year 1994 and soon after the marriage, it went into rough weather and the petitioner has even remarried but, there is no litigation except the present one between the petitioner and the complainant either in the Criminal Court or in the Family Court.

9. Considering the aforesaid facts and circumstances, the application is allowed, directing the petitioner, above-named, to be enlarged on anticipatory bail in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt/production of a copy of this order, on his furnishing bail bonds in the sum of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. District & Sessions Judge, Buxar, in connection with Complaint Case No. 786 (C) of 2019, subject to the conditions as laid down under Section 438 (2)



Cr.P.C. and the following conditions:

(i) In case, it is brought to the notice of the court below that the petitioner has given wrong statement regarding his criminal antecedents, Ld. court below shall cancel the bail bond of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his knowledge of the same.

(ii) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bond of the petitioner.

10. However, if the complainant is married with the petitioner and her daughter is born out of their wedlock, she has remedies before the Family Court and she should pursue the remedies there.

(Jitendra Kumar, J)

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