

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71724 of 2022

Arising Out of PS. Case No.-1408 Year-2020 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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Kamlesh Kumar @ Kundan Kumar, Male, aged about 27 years, Son of Parmeshari @ Parmeshwar Sah, R/V- Mahua Singhari, P.S- Mahua, Dist- Vaishali.

... .. Petitioner

Versus

1. The State of Bihar.
2. Kamini Kumari, aged about 22 years, Wife of Kamlesh Kumar @ Kundan Kumar, R/V- Mahua Singhai, P.S- Mahua, Dist- Vaishali. At present Daughter of Arun Sah, R/V- Lakhanpur, P.S.- Bhagwanpur, Dist- Begusarai.

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Praveen Prabhakar, Advocate
For the O.P. No. 2	:	Mr. Ashok Kumar Poddar, Advocate
For the State	:	Mr. Mohammed Arif, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 02-01-2024 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

2. Heard learned counsel for the petitioner, learned counsel for the opposite party no. 2 and learned Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in connection with Complaint Case No. 1408 (C) of 2020 dated 11.11.2020 registered for the offences punishable under Section 498A of the I.P.C. and Section 3/4 of the Dowry Prohibition Act.



4. As per the prosecution case, the petitioner and other co-accused persons are alleged to have tortured the complainant due to non-fulfilment of demand of Maruti Car as dowry.

5. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. The petitioner neither demanded any dowry nor tortured the complainant. It is submitted that the petitioner is the husband of the complainant and he has no concern with the alleged offence. It is submitted that the marriage between the parties was solemnized on 28.06.2020 and when the complainant went to her matrimonial home in first Bidari after solemnization of the marriage, she made complaint of abdominal pain and vomiting after weekend, she was brought to 'Prabhakar Nursing Home', Mahua, Vaishali, on 06.07.2020 where after medical check-up, she was found to be pregnant for one month. On query, she admitted that she was in love affair with one Sunil Kumar of her parental village, Lakhanpur, Begusarai, and she wanted to marry him but against her will and consent, she was married to the petitioner. She also admitted that she was in physical relationship with Sunil Kumar and she was premarital pregnancy with him. It is submitted that the petitioner has filed Matrimonial/Divorce Case No. 159 of 2020



against the complainant under Section 12(i)(d) of the Hindu Marriage Act, 1955 in the court of learned Principal Judge, Family Court, Vaishali at Hajipur. It is further submitted that by suppressing the fact that the complainant was already pregnant at the time of solemnization of marriage, her family members got marriage between the parties solemnized. It is further submitted that socially, it was agreed between the parties that the matter be settled amicable but the complainant and her family members filed this false complaint case to extract the illegal money from the petitioner. Learned counsel for the petitioner has relied upon the judgments of this Court in the case of “*Md. Naimul Haque Ansari @ Naimul Haque Ansari & Ors. Vs. The State of Bihar*, reported in 2006(3) PLJR 182” and in the case of *Satendra Kumar Antil Vs. Central Bureau of Investigation and Another* (2022) 10 SCR 351 and *Md. Asfak Alam Vs. The State of Jharkhand & Anr.* passed in *Criminal Appeal No (s). 2207 of 2023 arising out of Special Leave Petition (CRL.) No. 3433 of 2023*. Learned counsel for the petitioner has further submitted that Section 498(A) of the Indian Penal Code is triable by the Magistrate. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail application.



6. Learned A.P.P. for the State and learned counsel for the opposite party no. 2 have opposed the prayer for anticipatory bail of the petitioner.

7. Considering the aforesaid facts and circumstances of the case, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned court concerned, Begusarai in connection with Complaint Case No. 1408 (C) of 2020, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

8. If so advised, either of the parties will be at liberty to make an application before the court below for referring the matter to the District Mediation Centre for the purpose of reconciliation or one time settlement.

9. The application stands allowed.

(Chandra Prakash Singh, J)

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