

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77240 of 2023

Arising Out of PS. Case No.-1399 Year-2019 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

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Gopal Krishna Son Of Shailendra Kumar Mishra Resident Of Village -
Nawalpur Mishraulia, P.S. - Sakra, District - Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Pragya Kumari Wife Of Gopal Krishna, D/O. Pawas Kumar Thakur
Resident Of Village - Nawalpur Mishraulia, P.S. - Sakra, District -
Muzaffarpur. At Present Residing at Balha, P.S. - Chakmehsi, District -
Samastipur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Pandey, Advocate
For the Opposite Party/s : Mr. Tarkeshwar Nath Thakur, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 09-01-2024 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 and

learned Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in

connection with Complain No. 1399 of 2019, Tr. No. 3137

of 2019 registered for the offence punishable under Sections

498A, 323, 504, 406 read with 34 of the Indian Penal Code

and Sections 3 & 4 of the D.P. Act.



4. As per the prosecution case, the petitioner and the co-accused persons are alleged to have tortured the complainant mentally and physically due to non-fulfillment of demand of dowry.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. There is general and omnibus allegation against the petitioner who is husband of the complainant. It is further submitted that the petitioner never demanded any dowry nor tortured the complainant. It further submitted that the O.P. No.2, Pragya Kumari filed a matrimonial (Dovorce) Case No. 229 of 2019 in the Family Court, Muzaffarpur and on 15.11.2019, which was decreed ex-parte divorce from the Family Court, Muzaffarpur vide order dated 15.11.2019 passed by Principal Judge, Family Court, Muzaffarpur as per Annexure-p/3 to the bail petition. Learned counsel has further submitted that the complainant contracted second marriage after the divorce. The petitioner has relied upon the judgment 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."** Learned



counsel has further submitted that Section 498A of the IPC is triable by the Magistrate. Learned counsel has further relied on the judgments 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**. The petitioner has no criminal antecedent as stated in para 3 of the bail petition.

6. Learned A.P.P. for the State has vehemently 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/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Muzaffarpur in connection with Complain No. 1399 of 2019, Tr. No. 3137, subject to conditions 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)

Nilmani/-

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