

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77850 of 2023

Arising Out of PS. Case No.-9898 Year-2022 Thana- PATNA COMPLAINT CASE District-
Patna

Pranav Kumar Singh, S/O Shri Dilip Singh, R/O Village- Kailash Nagar
(Gauriya Asthan), Godhna Road, P.S- Nawada, Distt.- Bhojpur (Arrah).
... .. Petitioner

Versus

1. The State of Bihar
2. Pallavi Singh, D/O Shri Anil Kumar, R/O New Chaman Chowk, East of
Laxmi Nagar, Nearby Saraswati Bal Vidya Mandir School, P.O- East Laxmi
Nagar, PS- Ram Krishna Nagar, Distt.- Patna- 800020.
... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Ajit Kumar Jha, Advocate
For the State	:	Mr. Md. Fahimuddin, APP
For the O.P. No. 2	:	Mr. Vishal Vikram Rana, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 10-01-2024 Heard learned counsel for the petitioner, learned
counsel for the complainant-O.P. No. 2 and learned APP for the
State.

2. The petitioner in this case is seeking pre-arrest bail
in connection with Complaint Case No. 9898 (C) of 2022 in
which cognizance has been taken under Section 498A of the
Indian Penal Code. He has got no criminal antecedent.

3. As per the prosecution story, on 11.12.2020, the
complainant-O.P. No. 2 solemnized marriage with the petitioner
according to Hindu Rites and Rituals. After marriage, the
husband of the complainant and his family members started
torturing her for non-fulfillment of demand of dowry of Rs.10



lakhs and a Scorpio car. It is alleged that after eight months of marriage, she went to Bangalore where her husband was residing and there her husband used to beat her in intoxicated condition.

4. Learned counsel for the petitioner submits that the present case has been lodged making false and frivolous allegations against him. It is a case where there is an issue of compatibility between the husband and wife which has given rise to a matrimonial discord.

5. Learned counsel submits that the petitioner has filed a divorce case being Matrimonial Case No. 267 of 2022 in the court of learned Principal Judge, Ara (Bhojpur) under Section 13 of the Hindu Marriage Act, 1955. It is only after filing of the said divorce case and when the Opposite Party No. 2 got knowledge of the same, the present case has been lodged. While answering a court's query in course of her deposition under Section 202 CrPC, the O.P. No. 2 has admitted that the divorce case has been filed prior in time.

6. Learned counsel submits that the attempt earlier taken for conciliation has failed because of the nasty kind of allegations which have been made against the petitioner and his entire family members including the lady members of the



family. It is a case of over-implication of the family members.

7. It is lastly submitted that Opposite Party No. 2 has filed the present case, a case under Domestic Violence Act and a case for maintenance. Learned counsel has, at this stage, submitted that the learned court below has refused to grant privilege of anticipatory bail to the petitioner only because the petitioner did not agree to live with the Opposite Party No. 2 and he was not ready to pay any maintenance, however, learned counsel submits on his own that in order to show his bonafides, the petitioner is ready to pay a sum of Rs.5,000/- per month to the O.P. No. 2 for the present, subject to any order which will be passed by a competent court in the maintenance case.

8. Learned counsel for the complainant-O.P. No. 2 as well as learned APP for the State have opposed the prayer for pre-arrest bail of the petitioner. It is submitted that the fact that divorce petition was filed prior in time cannot be a ground to grant privilege of anticipatory bail to the petitioner. The submission is that it is a case of causing physical and mental cruelty upon the complainant-O.P. No. 2.

9. Having regard to the facts and circumstances of the case as also the materials available on the record, this Court has noticed that it is a case of matrimonial discord and dispute. The



learned Additional Sessions Judge-IX, Patna is not correct in observing that the present case would not be covered by the judgment of the Hon'ble Supreme Court in the case of **Satender Kumar Antil versus Central Bureau of Investigation and Another** reported in **(2022) 10 SCC 51**. In fact in the case of **Satender Kumar Antil** (supra), the Hon'ble Supreme Court has reiterated the views expressed earlier by the Hon'ble Apex Court in the case of **Arnesh Kumar versus the State of Bihar and Another** reported in **(2014) 8 SCC 273**. This is a case under Section 498A IPC and this Court finds no reason as to why the learned Additional Sessions Judge would take a view that the judgment of the Hon'ble Apex Court would not cover this case.

10. In the opinion of this Court, in case the learned Additional Sessions Judge was of the view that the judgment of the Hon'ble Supreme Court was not applicable in this case, the court was obliged to point out the distinction and the distinguishing feature of the case. A general observation of the nature given in the impugned order cannot be said to be a judicious consideration of the submissions advanced on behalf of the petitioner.

11. This Court has further noticed that the prayer for



anticipatory bail of the petitioner has been rejected only because the court found that the petitioner was not ready to live with O.P. No. 2 and was not ready to pay maintenance. Again, this ground for rejection is not in tune with the judgments of the Hon'ble Supreme Court and a recent judgment of the Hon'ble Supreme Court in the case of **Kunal Choudhary versus the State of Jharkhand and Another (Cr. Appeal No. 3701 of 2023)** would clearly demonstrate that such grounds cannot be taken for rejection of a prayer for anticipatory bail. If the husband is willing to provide some financial help subject to an appropriate order of a competent order and such plea is taken without there being any imposition to that extent by the court, such fact could have been recorded but rejection of the anticipatory bail on the ground stated in the impugned order is not based on a correct statement of law and the judicial pronouncement.

12. For the reasons stated above, this Court directs that in case of his arrest or surrender within a period of four weeks from today, the petitioner above named be released on bail in connection with Complaint Case No. 9898 (C) of 2022 on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the



satisfaction of learned Judicial Magistrate, 1st Class, Patna, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

13. It goes without saying that since the petitioner has on his own come forward to submit that he would pay a sum of Rs.5,000/- per month to the Opposite Party No. 2, such amount shall be paid within first seven days of every month in the bank account of the Opposite Party No. 2.

14. Learned counsel for the petitioner submits that the details of the bank account be provided by the O.P. No. 2 through her lawyer for this purpose.

15. This application stands disposed of accordingly.

16. Let a copy of this order be communicated to the learned District and Sessions Judge, Patna for circulation among the Presiding Officers.

(Rajeev Ranjan Prasad, J)

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