

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79607 of 2023

Arising Out of PS. Case No.-267 Year-2021 Thana- GAYA COMPLAINT CASE District-
Gaya

=====

Ismail Khalifa S/O Masooq Khalifa R/O Village- Pandava Rajhara, Distt.-
Palamu.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shrimati Rizwana Perween W/O Ismail Khalifa R/O Village- Pandava
Rajhara, Distt.- Palamau, D/O Nezam Khalifa At Present Village- Kothi, P.S-
Kothi, Distt.- Gaya.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.S. Jamil Akhtar, Adv.
For the Opposite Party/s : Mr.Kanhiya Kishor, APP

=====

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

ORAL ORDER

2 25-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in
connection with Complaint Case No. 267 of 2021 dated
09.08.2021 registered for the offences punishable u/ss 498A, 313,
323, 379 and 504 of the Indian Penal Code and u/s 3/4 of the D.P.
Act.

3. 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 Rs.
5,00,000/- as dowry. It is further alleged that the petitioner caused
abortion by administering medicine and also solemnized second



marriage.

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 further submitted that the petitioner is the husband of the Complainant and he has no concern with the alleged offence. Learned counsel has further submitted that the petitioner has denied second marriage. 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 opposed the prayer for anticipatory bail of the petitioner.

7. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the petitioner,



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, Sherghati, Gaya in connection with Complaint Case No. 267 of 2021, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure with further condition :-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the prosecution will be at liberty to move for cancellation of his bail bond.

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)

Gautam/-

U		T	
---	--	---	--

