

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1459 of 2024

Arising Out of PS. Case No.-1224 Year-2021 Thana- PATNA COMPLAINT CASE District-
Patna

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Binay Kumar, S/O Bijendra Chaudhary, Residence of Village/Mohalla- Utta
Madarpur, Jehanabad, P.O., P.S. and Dist.- Jehanabad

... .. Petitioner

Versus

1. The State of Bihar
2. Madhuri Kumari @ Madhvi Kumari W/O Binay Kumar Residence of
Village/Mohalla-Utta Madarpur, P.O., P.S. and Dist.- Jehanabad at Present
Resident of Village- Khedalpura (Sarari Gumti), P.O. Khagaul, P.S.-
Shahpur, Dist.- Patna

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Nitya Nand Neeraj, Advocate Ms. Kumari Anjani Sinha, Advocate
For the State	:	Mr. Bishweshwar Ram, APP
For the O.P. No. 2	:	Mr. Nand Kishore Prasad Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 31-01-2024 Heard learned counsel for the petitioner, learned
counsel for the O.P. No. 2 and learned APP for the State.

2. The petitioner in the present case is seeking pre-arrest bail in connection with Complaint Case No. 1224 (C) of 2021 registered for the offences punishable under Sections 323, 504, 506, 498(A) of the Indian Penal code and Section 3/4 of the Dowry Prohibition Act. He has got no criminal antecedent.

3. As per the prosecution story, the complainant solemnized marriage with the petitioner on 27.12.2017 as per Hindu Rites and Customs, thereafter, this petitioner and his family members started torturing her due to non-fulfillment of

demand of dowry of Rs.5,00,000/- and the complainant was ousted from her matrimonial house.

4. Learned counsel for the petitioner submits that the petitioner is a member of Border Security Force (BSF). The marriage between the parties was solemnised in the year 2017 but thereafter O.P. No. 2 was not living peacefully with his family members. She allegedly administered poison to the mother of the petitioner for which a case being Jehanabad P.S. Case No. 596 of 2021 was registered. Learned counsel submits that the petitioner has filed a petition seeking decree of divorce whereafter the present case has been lodged.

5. The prayer for pre-arrest bail of the petitioner has been seriously opposed by learned counsel for O.P. No. 2. It is submitted that in order to get rid of his obligations, the petitioner got O.P. No. 2 involved in a false and frivolous case of killing of his mother. The father of the petitioner lodged a first information report in this regard but after investigation, police has found the case true under Section 306 IPC only.

6. Learned counsel submits that the O.P. No. 2 was arrested in connection with the said case and she remained in judicial custody before coming out on bail. On the one hand, O.P. No. 2 is facing frivolous litigation at the end of her in-laws

and at the same time, the petitioner is neglecting her by putting her under continued mental torture as she is unable to make two ends meet. She has filed a maintenance case being Case No. 286 of 2022 in the court of learned Principal Judge, Family Court, Patna and in the said case, notices have been issued to the petitioner twice but he is not putting appearance in the said case as a result whereof the O.P. No. 2 has been kept engaged in litigation without there being any financial assistance.

7. Having understood the seriousness of the submissions made on behalf of O.P. No. 2, at this stage, learned counsel for the petitioner has sought instruction from the petitioner and submitted that the petitioner would put appearance in the maintenance case on the very next date and until the maintenance case is finally decided or an interim order is passed by learned Family Judge, he would pay a sum of Rs.7,000/- per month to the O.P. No. 2 and this payment would be deposited in her account within first seven days of every month .

8. After the aforesaid statement was made on behalf of the petitioner, learned counsel for the O.P. No. 2 submits that in such circumstance, this Court may consider granting privilege of pre-arrest bail to the petitioner but in case the petitioner does

not abide by his assurance, it should be left open for the O.P. No. 2 to seek cancellation of bail of the petitioner.

9. Having regard to the aforementioned facts and circumstances in the nature of disputes and taking note of the statements made on behalf of the petitioner that for the present, he would pay Rs.7,000/- per month within first seven days of every month in the account of the O.P. No. 2 and shall put appearance in the maintenance case pending before the Family Court on the next date itself and the first payment must be made by 7th February, 2024, this Court directs that in case of his arrest or surrender within a period of six weeks from today, the petitioner above named be released on bail in connection with Complaint Case No. 1224 (C) of 2021 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 Danapur, Patna, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

10. And further condition that in case the petitioner does not conduct himself in accordance with the assurance given in course of hearing of the case as indicated hereinabove, it will be open for the O.P. No. 2 to move this Court for an appropriate order.

11. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

12. This application stands disposed of.

(Rajeev Ranjan Prasad, J)

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