

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86220 of 2023

Arising Out of PS. Case No.-684 Year-2004 Thana- COMPLAINT CASE District- Banka

Md. Ehsan @ Md. Aheshan son of Md. Israfil Village- Agarpur PS- Lodipur
Goradih Dist- Bhagalpur

... .. Petitioner

Versus

1. The State of Bihar
2. Bibi Sanjida Khatoon wife of Md. Ehsa @ Md. Aheshan Village- Baliyas
PS- Dhoraiya Dist- Banka

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Pratyush Pratap Singh, Advocate
For the Opposite Party/s : Mr. Pranav Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 24-01-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner in the present case is seeking pre-arrest bail in connection with Complaint Case No. 684(C) of 2004 registered for the offences punishable under Sections 379, 323 and 498A of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act in which the learned court below has taken cognizance under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. He has got no criminal antecedent.

3. As per the prosecution story, the complainant was married to the petitioner in the year 1999. It is alleged that after

two years of the marriage, the petitioner along with his family members started demanding a colour television and cash Rs. 20,000/- from the complainant and on non-fulfillment of the same, she was being subjected to abuse and assault. In this regard, a *Panchayati* was also held but it went in vain and ultimately, the complainant was ousted from her matrimonial home after taking away all her clothes and ornaments.

4. Learned counsel for the petitioner submits that the allegations against the petitioner are false, concocted and baseless. It is the complainant who left the matrimonial house without consent of the petitioner and refused to live with him.

5. Learned A.P.P. for the State has opposed the prayer for pre-arrest bail of the petitioner. Attention of this Court has been drawn towards the observations of the learned court below in the impugned order. It is submitted that this is a complaint case of the year 2004. Cognizance has been taken under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act and the petitioner had challenged the order taking cognizance and issuance of summons in Cr. Misc. No. 10147 of 2006 which has been rejected by this Court vide order dated 01.09.2006. Still for about seventeen-eighteen years, the petitioner is not putting his appearance in the learned court

below which has arrested the trial of the case.

6. Learned A.P.P. therefore submits that it is a case in which the petitioner is in fact absconding and is not submitting himself to the jurisdiction of the court hence he does not deserve privilege of anticipatory bail.

7. Having regard to the facts and circumstances of the case, the observations of the learned court below in the impugned order showing that the petitioner is well aware of this case and even after rejection of his application in this Court in the year 2006, he has not put his appearance, this Court is of the opinion that the conduct of the petitioner would deprive him from getting privilege of anticipatory bail. His prayer is refused.

8. Recently, the Hon'ble Supreme Court has once again reiterated its view on the grant of bail. Reference in this regard may be made to the judgment of the Hon'ble Supreme Court in the case of **Satender Kumar Antil vs. Central Bureau of Investigation and Another** reported in (2022) 10 SCC 51. The earlier views expressed in **Arnesh Kumar vs. The State of Bihar and Another** reported in (2014) 8 SCC 273 have been reiterated. This Court is, therefore of the view that in case the petitioner surrenders and prays for regular bail within a period of four weeks from today in the learned court below, his

prayer for regular bail shall be considered on its own merit
keeping in view the judgments of the Hon’ble Supreme Court.

9. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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