

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84232 of 2024

Arising Out of PS. Case No.-412 Year-2022 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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Manikant Yadav @ Manilal Yadav Son of Ramdeo Yadav Resident of Village-
Devanpur, PS- Roesera District -Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Divya Rani @ Divya Kumari wife of Manikant Yadav @ Manilal Yadav,
Village- Devanpur, Ps- Rosera, Distt.- Samastipur, Daughter of Ramashish
Yadav , Resident of village- Mangalgadh, Ps- Hasanpur, Dist- Samastipur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Bijay Bhushan Prasad, Advocate Ms. Rani Shashi Bharti, Advocate
For the State	:	Mr. Chandra Sen Prasad Singh, APP
For the O.P. No. 2	:	Mr. Ranjit Kumar Yadav, Advocate

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 22-03-2025 Heard Ld. counsel for the petitioner and

Ld. APP for the State.

2. The petitioner apprehends his arrest in connection with Complaint Case No. 412 of 2022 dated 22.06.2022, filed for the offences punishable under Sections 323, 379, 498(A) and 494 of the Indian Penal Code and Section ¾ of D.P. Act, but cognizance has been taken under Section 498A IPC and Section 4 of the D.P. Act.

3. As per allegation, the complainant-wife was married to the petitioner in the year of 2012 and subsequently, she joined the matrimonial home of the petitioner and even one



child is born out of the wedlock. But on account of non-fulfillment of demand of dowry, she was subjected to torture and she has been ultimately ousted from the matrimonial house of the petitioner and petitioner has entered into second marriage.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that marriage was solemnized in the year of 2012 and one male child was born out of the wedlock in the year 2013. However, after lapse of 10 years since the marriage, this criminal complaint has been filed by the wife/complainant. He further submits that the petitioner has also filed one matrimonial petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights and in that proceeding, complainant has not appeared even to till date. He further submits that petitioner is willing to keep his wife with all love and dignity. He has also denied that he has entered into the second marriage and that is why, learned Magistrate has not taken cognizance under Section 494 of the Indian Penal Code despite such allegation.

5. It is also stated in paragraph no. 2 of the petition that petitioner has never moved before this Hon'ble Court for grant of Anticipatory Bail or Regular one.



6. It has also been stated in paragraph no.3 of the bail petition that the petitioner has no criminal antecedent.

7. However, Ld. APP for the State and learned counsel for the complainant vehemently oppose the prayer of the petitioner for anticipatory bail submitting that on account of non-fulfillment of demand of dowry, complainant has been subjected to cruelty and ultimately, she has been ousted from the matrimonial home of the petitioner and petitioner has entered into second marriage. They further submit that though it is fact that learned Magistrate has not taken cognizance under Section 494 IPC, but in bail proceeding, the Bail Court is required to peruse the content of the allegation and pass order accordingly and in the complaint petition, it clearly appears that it is on account of the second marriage, problem has started between the couple and marriage is running into rough weather.

8. I considered the rival submissions of the parties.

9. I agree with the learned counsel for the O.P. No. 2 and learned APP for the State that Bail Court is required to look into the content of allegation rather than the offence taken cognizance of by the Court below. As per content of the allegation, it clearly transpires that the marriage is running into rough weather on account of second marriage and complainant



has been subjected to cruelty and ousted from the matrimonial home.

10. Hence, I am not persuaded to enlarge the petitioner on anticipatory bail. Accordingly, the prayer for anticipatory bail of the petitioner stands rejected.

(Jitendra Kumar, J.)

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