

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 78092 of 2019**

Arising Out of PS. Case No.-331 Year-2019 Thana- RAHUI District- Nalanda

Abhay Kumar, aged about 34 years, Male Son of Suresh Prasad, Resident of Shahpur, PS Rahui, District - Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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| For the Petitioner/s | : | Mr. Satya Ranjan Sinha, Advocate |
| For the State | : | Ms. Gulnar Begum, APP |
| For the Informant | : | Mr. Hansraj, Advocate |

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 10-08-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Satya Ranjan Sinha, learned counsel for the petitioner; Ms. Gulnar Begum, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Hansraj, learned counsel for the informant.

3. The petitioner apprehends arrest in connection with Rahui PS Case No. 331 of 2019 dated 27.08.2019, instituted under Sections 498A, 323, 324, 325 and 307/34 of the Indian Penal Code.

4. The petitioner, who is the husband of the informant, along with his other family members is accused of assault, torture



and demand of dowry of Rs. 5 lakhs and further of driving her out of the matrimonial home.

5. Learned counsel for the petitioner submitted that it is the informant who is not wanting to live with the petitioner as she keeps going to her parents' house. It was submitted that in the FIR, it has been stated that Rs. 18 lakhs was spent on the marriage, which is false for the reason that the petitioner is in job in a private firm and, thus, there was no occasion for the family of the informant spending so much money on him in the marriage. Learned counsel submitted that prior to the filing of the present case, the petitioner had filed Informatory Petition No. 1592 of 2019, before the Chief Judicial Magistrate, Nalanda at Biharsharif on 18.07.2019 apprehending false implication. Learned counsel submitted that the petitioner has also filed Rahui PS Case No. 330 of 2019 on 27.08.2019, alleging that a day prior at night, the family members of the informant had come to his place and had assaulted the inmates and had also forcibly taken his mother to the village of the informant where her hair was cut. Learned counsel submitted that the petitioner all along has been ready to keep the informant but she is not cooperating due to negative influence of her relatives.



6. Learned APP submitted that as per the allegation, the petitioner is creating obstacle in the matrimonial relationship and creating a situation where the informant is unable to live in the matrimonial home.

7. Learned counsel for the informant submitted that the petitioner is a very shrewd person and right from the beginning, he has been creating issues and situations so that the informant may leave the matrimonial home. It was submitted that after assault, the informant had to be admitted to PMCH where she was treated for various injuries caused by torture and assault by the petitioner and his family members. Learned counsel submitted that in the past several attempts were made by this Court by directing the petitioner to take the informant with him to the matrimonial home but initially, he took her to a boys hostel where there was a common toilet shared with other male inmates and thereafter when the turn came to take her to a separate house, the same was without any provisions and even as per the latest exercise, the petitioner had come to the house of the informant on 16.07.2021 and had asked her to follow her as he was on a scooty, but on the way, he disappeared and the informant kept waiting at his place which was locked and he did not turn up and even the role of the police has not been proper for which she has also submitted a



petition before the Superintendent of Police, Nalanda. Learned counsel submitted that the conduct of the petitioner is clear proof that he is somehow trying to avoid taking responsibility of the informant and keep her as his wife in the matrimonial home.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that repeatedly it has given indulgence and chance to the petitioner to live up to his commitment that he is ready to keep the informant with him for which exercise was directed many times and every time, the Court finds that due to some shortcoming on the side of the petitioner, such exercise failed and even with regard to the last exercise, the informant has brought photographs on record showing that she is waiting outside the locked gate of the house where the petitioner was to take her but he did not turn up. Further, the Court finds that from the allegations and materials on record and what has come during the course of hearing, it cannot be said that the allegations made are frivolous and fit to be dismissed at the threshold. Further, from the conduct of the petitioner before the Court where, despite over indulgence given to him, the exercise which was directed by the Court, that too at the behest of the petitioner, has failed primarily because of the conduct of the petitioner. Thus, taking an overall view in the



matter, the Court is not inclined to grant pre-arrest bail to the petitioner.

9. Accordingly, the petition stands dismissed.

10. Interim protection granted to the petitioner under order dated 20.07.2020, stands vacated.

11. However, in view of submission of learned counsel for the petitioner, it is observed that if the petitioner appears before the Court below and prays for bail, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

12. Coming to the other issue where there is serious allegation of the role of the SHO of Silao PS for which the father of the informant has filed an application before the Superintendent of Police, Nalanda on 31.07.2021, copy of which is Annexure R/1 of the 6th supplementary counter affidavit filed on behalf of the informant, let the Superintendent of Police, Nalanda file a detail report on the same. It is made clear that if the Court finds that the Superintendent of Police, Nalanda has not taken serious note of the allegations made and has not conducted a thorough and proper inquiry into the matter, the Court may take serious judicial note and appropriate action in the matter for which the Superintendent of Police, Nalanda shall also have to take responsibility.



13. Such report be submitted to the Court through the learned APP who shall file it latest by 31st August, 2021 and the matter be listed on 4th September, 2021, among the top five cases, only for the purpose of considering the report of the Superintendent of Police, Nalanda.

14. Learned APP shall communicate the order to the Superintendent of Police, Nalanda.

(Ahsanuddin Amanullah, J.)

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