

Abhishek Kumar Chandan vs The State Of Bihar on 8 December, 2023

Author: Partha Sarthy

Bench: Partha Sarthy

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70594 of 2023
Arising Out of PS. Case No.-1684 Year-2016 Thana- PATNA COMPLAINT CASE
Patna

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ABHISHEK KUMAR CHANDAN son of Kamta prasad R/o- New By Pass
Road Jhumritilaiya PS- Jhumritilaiya Dist- Koderma Jharkhand P/A- at-64
Madhumitra Estate Bendal Sendra Road Near Nagar Ps- Jigni Dist-
Bengaluru Karnataka

... .. Petition

Versus

1. The State of Bihar
2. Nividita Nishchal D/o- Sri Jitendra Prasad, W/o- Abhishek Kumar Chanda
M/S- 137, MLA Colony BMP Road Ashiana Raja Bazar PS- Hawai Adda
Dist- Patna

... .. Opposite

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Appearance :

For the Petitioner/s : Mr. Siya Ram Shahi, Advocate

Mr. Sudha Chandra, Advocate

For the Opposite Party/s : Mr. Anuj Kumar Shrivastava, APP

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 08-12-2023

1. Heard learned counsel for the parties.

2. The instant application is a second attempt by the petitioner for grant of anticipatory bail in connection with Complaint Case no. 1684C of 2016 wherein cognizance has been taken under section 498A of the Indian Penal Code and section 4 of the Dowry Prohibition Act.

3. As per the prosecution case, the complainant was married to the petitioner in the year 2009. Soon after the marriage, the accused persons including the petitioner herein started to torture the complainant and assault her asking her to get money from her parents. She was sent to her parents place. Further in the year 2015 the accused took away her passbook, Patna High Court CR. MISC. No.70594 of 2023(3) dt.08-12-2023 ATM card, certificates as also jewellery.

4. Learned counsel for the petitioner submits that the earlier application for bail of the petitioner

was rejected vide order dated 19.8.2023 (Annexure-1) passed in Cr. Misc. no. 52911 of 2023. Referring to the operative part of the order it is submitted that this Court took into consideration that the complaint was filed in the year 2016, cognizance was taken in the year 2017 and the application for grant of bail was filed 6 years later in the year 2023. Learned counsel referring to the order sheet of the learned Court below in the complaint case refers to order dated 14.11.2022 to submit that it was only on that date that the Court called for a report from the concerned police station and thereafter on the very next date ie 13.2.2023 that non-bailable warrant was issued against the petitioner. It is only then that the petitioner learnt about the pendency of this case and immediately moved for grant of anticipatory bail which was rejected vide aforesaid order dated 19.8.2023.

5. The application is opposed by learned APP for the State and learned counsel for the opposite party no.2. Learned counsel for the opposite party no.2 submits that from the contents of the aforesaid order dated 19.8.2023 it would be evident that the cause of rejection of the first application for anticipatory bail of the petitioner was not only the complaint having been filed in the year 2016 and the application for bail Patna High Court CR. MISC. No.70594 of 2023(3) dt.08-12-2023 being filed in the year 2023 but also the nature of allegation against the petitioner in the complaint. Both the circumstances still remain unchanged. It is further submitted that even in the case for domestic violence, the petitioner has chosen not to appear inspite of notice having been issued. The petitioner has not made out any case for grant of anticipatory bail nor for reconsideration of the earlier order whereby the prayer for anticipatory bail was rejected.

6. In response, learned counsel for the petitioner submits that the petitioner is appearing in all the three cases filed by the petitioner ie the case under section 498A of the Indian Penal Code, the case under the Domestic Violence Act as also the Maintenance case and is contesting at all the three places.

7. Having heard learned counsel for the parties and having perused the material on record it transpires that the prayer for anticipatory application of the petitioner in connection with Complaint case no.1684C of 2016 was rejected by this Court vide order dated 19.8.2023 (Annexure-1) in the following terms:

"6. Having heard learned counsel for the parties and taking into consideration the nature of allegation in the complaint together with the fact that the complaint was filed in the year 2016, cognizance was taken in the instant case in the year 2017 and the application for anticipatory bail was Patna High Court CR. MISC. No.70594 of 2023(3) dt.08-12-2023 filed by the petitioner six years later only in the year 2023, together with the nature of allegation as contained in the complaint, the Court is not inclined to enlarge the petitioner on anticipatory bail and the application is rejected."

8. So far as the contents of the petition and the averments made herein are concerned, there is no dispute with respect to the fact that the the complaint was filed in the year 2016, cognizance was taken in the year 2017 and the petitioner moved for anticipatory bail for the first time in the year, 2023. From the order sheet it transpires that in fact summons were issued in the complaint case to

the petitioner as far back as in the year 2018.

9. So far as the points being raised by the petitioner herein are concerned, the same were available to the petitioner when the first application for anticipatory bail was moved and rejected taking into consideration besides the date of filing of the complaint etc. also the nature of allegations in the complaint against the petitioner. In the opinion of the Court the petitioner has not made out any case for reconsideration of the prayer for anticipatory bail and the same is rejected.

10. The petitioner is directed to surrender in the learned Court below within a period of four weeks from today.

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(Partha Sarthy, J)