
(2013) 05 JH CK 0019

Jharkhand High Court

Case No: A.B.A. No. 756 of 2013

Ashok Kumar

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision: May 1, 2013

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 438(2)

Citation: (2013) 3 AJR 299

Hon'ble Judges: Prashant Kumar, J

Bench: Single Bench

Advocate: Krishna Murari, for the Appellant; G.S. Prasad, Assistant Public Prosecutor and Sanjeev Thakur for Informant, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Prashant Kumar, J.

Anticipatory bail application filed by Ashok Kumar is moved by Sri. Krishna Murari, learned counsel for the petitioner and opposed by Sri. G.S. Prasad, Addl. P.P. for the State and Sri Sanjeev Thakur, learned counsel for the informant-opposite party. It is alleged that petitioner, who is husband of complainant, had tortured the complainant for demand of dowry. However, from perusal of paragraph No. 4 of the complaint petition, I find that the main allegation of demand of dowry is against accused No. 2, namely, Rajendra Kumar Yadav, his wife (accused No. 3) namely, Smt. Swati Devi and accused Nos. 5 and 7 namely, Sita Ram yadav and Jawahar Lal Rai respectively. It is then alleged that from the month of November, 2004 till October, 2005, petitioner used to come to Bokaro and during that period he frequently humiliated complainant and alleged that she has ugly face. At paragraph No. 3 of the complaint petition it is alleged that petitioner is very obedient and attached with his elder brother (accused Nos. 2 and 4) and has very high regards and respect to

his both brothers-in-law (accused Nos. 5 and 7) and female accused No. 3. It is alleged that because of the aforesaid reason petitioner is not taking side of complainant.

2. It appears that petitioner has filed an application for restitution of conjugal right before the Family Court, Nawada vide Matrimonial Case No. 70/2011. In that suit complainant has appeared and contested the suit by filing written statement. In the said written statement she specifically stated that she is not willing to reside with the petitioner. In the written statement she made various allegations against petitioner. At paragraph No. 2 she stated that her husband is rustic man. At paragraph No. 3 she stated that her husband has no mind and he always take advice and help from others, including the complainant, while taking any decision. This shows that petitioner also used to take advice of complainant before taking any decision. Thus, her allegation that he is not taking her side appears to be contradictory. It further appears that co-accused Rajendra Kumar Yadav has been granted regular bail by learned Sessions Judge, whereas sister-in-law accused No. 3 Smt. Swati Devi alias Sarswati Devi and another elder brother Umesh Kumar (accused No. 4) have been granted anticipatory bail by a Bench of this Court vide order contained in Annexure-7.

Considering the aforesaid fact and circumstance, I allow this application and direct the petitioner, named above, to surrender in the court below by 16-05-2013. If petitioner surrenders by that time, the court below is directed to enlarge the petitioner, named above, on bail, on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of J.M. 1st class, Bokari in connection with Sector-IV(Sector-VI) P.S. case No. 141/2012, corresponding to G.R. No. 1542/2012(C.P. Case No. 822/2012, subject to the Condition as laid down u/s 438(2) of the Cr.P.C.