

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.16590 of 2014

=====

Arbind Kumar Singh S/O Ram Lakhan Singh Resident Of Village Pandura
Rampur, P.S. Sandesh, District Bhojpur.

.... Petitioner/s

Versus

1.The State Of Bihar

2.Pratibha Devi w/o Sri Arvind Singh, r/o Village Parura, P.S. Rampur, P.S.
Sandesh District Bhojpur at present r/o village Kothi P.O. + P.S. Bikram
District Patna.

.... Opposite Party/s

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

5 20-03-2015

Heard learned counsel for the parties.

This application has been filed for modification of
the order dated 24.12.2013 passed in Criminal
Miscellaneous No. 37571 of 2013, which for the sake of
clarity and convenience is quoted hereinbelow:-

“Heard learned counsel for the parties.

Having regard to the allegation for offence under section 498A and other allied offences of the Indian Penal Code and the petitioner being the husband, who has repeated this sort of misbehavior with his wife as is apparent from paragraph no.8 of the complaint petition, while this Court is not inclined to grant privilege of anticipatory bail to the petitioner, the only thing which can be said for the present on the repeated submission of the learned counsel for the petitioner in view of undertaking of the petitioner in paragraph no. 15 of this application, reading as follows:

"That the petitioner is always ready to keep his wife with full honour and dignity".

is that if the petitioner appears before the court below on 22nd January, 2014 alongwith his wife and if the wife is prepared to restore his relationship with the



petitioner without being in any way coerced to do her work in the Beauty Parlor which she has been doing for livelihood, the court below will grant provisional bail to the petitioner for a period of three months and if on completion of a period of three months it is found from the statement of the wife of the petitioner that the petitioner did not misbehave with her, such provisional bail of the petitioner shall be confirmed but if there is any further complaint on the part of the wife of the petitioner as with regard to she being subjected to physical or mental cruelty/torture the provisional bail of the petitioner shall be cancelled and he will be immediately taken into custody.

With the aforementioned observation and direction, this application is disposed of.”

This application in fact has come to be filed on 07.04.2014, alleging that the wife of the petitioner namely, Pratibha Devi had herself refused to accompany the petitioner in the Court below and as such whatever conditions were imposed in the order of this Court dated 24.12.2013, as quoted above could not be complied by the petitioner. Having regard to the nature of allegation made in the modification application, this Court had not only impleaded wife of the petitioner, Pratibha Dev as Opposite Party No. 2 but had also issued noticed for being served upon her through her counsel in the pending Complaint Case No. 920(c) of 2010 pending in

the Court of A.C.J.M. Danapur.



Pursuant to the order of this Court dated 14.01.2015, such notices were also served, whereafter Opposite Party No. 2, had filed her appearance through her counsel namely, Manish Kumar No. 2. Thereafter this case has been placed on 18.03.2015, but on that date also no one had appeared on behalf of Opposite Party No. 2. The case was again adjourned for today and even when the name of the learned counsel for Opposite Party No. 2 is finding place in the cause list, no one has appeared to represent the interest of Opposite Party No. 2.

In that view of the matter, this Court would direct the petitioner to surrender within a period of four weeks from today, whereafter he shall be granted provisional bail for a period of one month in which period the Court below shall get the complainant appear in person and also pass necessary order for confirmation of the bail keeping in view the spirit of the earlier order of this

court dated 24.12.2013.

That being so, this Court would direct that if the petitioner namely, **Arbind Kumar Singh**, surrenders within a period of four weeks from today, he would be released on provisional bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of **A.C.J.M., Danapur** in connection with **Complaint Case No. 920(c) of 2010** subject to the conditions laid down under Section- 438 (2) Cr. P.C and also subject to the following conditions:-

(i) That both the bailors will be close relative of the petitioner who will give an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the bailor shall also state on affidavit that he will inform the Court concerned if the petitioner is implicated in any other case of

similar nature after his release in the present case and thereafter the Court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.

(iii) That the petitioner will give an undertaking that he will receive the police papers on the given date and be present on the date fixed for charge and if he fails to do so on two given dates and delays the trial in any manner, his bail will be liable to be cancelled for reasons of misuse.

(iv) That the petitioner will be well represented on each and every date of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

Ranjan/-

U			
---	--	--	--