

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18853 of 2015

Arising Out of PS.Case No. -194 Year- 2014 Thana -BIKRAM District- PATNA

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Md. Khurshid S/o Mustafa Ansari Resident of Village - Sundarpur, P.s. -
Bikram, District - Patna.

.... Petitioner/s

Versus

1.The State of Bihar
2.Afsana Praveen, w/o Md. Khurshid, d/o Md. Mahfush Alam resident of
Village Sadikpur, P.S. Maner, District Patna.

.... Opposite Party/s

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 18-06-2015

Heard learned counsel for the parties.

Learned counsel for the petitioner, prays for and
is allowed to implead wife of petitioner Afsana Praveen
as Opposite Party No. 2.

Having regard to the nature of allegation against
the petitioner for the offences punishable under
Sections-498A, 509/34 of the Indian Penal Code as well
as Section-3(4) of the Dowry Prohibition Act and the
fact that the petitioner is the husband who now before
this Court in presence of learned counsel for Opposite
Party No. 2, has taken a stand that whatever differences
may have arisen between the parents (Father-in-Law
and Mother-in-Law of the complainant) on the one hand
and the complainant (wife of the petitioner) in absence



of the petitioner, while he was in Kuwait, should not weigh in further continuance of matrimonial life specially when the complainant herself in the complaint has wanted some sort of settlement for saving her marriage. Learned counsel for the petitioner further submits that the petitioner is prepared to keep his wife- Opposite Party No. 2 with all due respect and dignity that the wife would deserve in the hands of the husband. Learned counsel for Opposite Party No. 2, on the other hand has submitted that this petitioner even after return from Kuwait became party in throwing away informant, Opposite Party No. 2, from the house at the behest of his parents (Father-in-Law and Mother-in-Law) and therefore, even after that the Opposite Party No. 2, is prepared to live with the petitioner for saving her married life, some sort of protection should be given to her by this Court.

Considering the fact that the married life of the petitioner and Opposite Party No. 2 is quite nascent and the marriage had taken place only in the year 2012, this



Court for the time being would like to test the bonafide of the petitioner by putting him on provisional bail for a period of one year and if the conduct of the petitioner is found to be satisfactory on enquiry from Opposite Party No. 2, by the Court below after expiry of period of one year, the provisional bail of the petitioner shall be confirmed.

Considering the aforementioned facts and the more relevant aspect that there is possibility of restoration of peaceful conjugal and matrimonial life of the petitioner, this Court would direct that if the petitioner namely, **Md. Khurshid**, surrenders on **2nd of July, 2015**, he would be released on provisional bail for a period of four weeks on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each, to the satisfaction of **J.M. 1st Class, Danapur, Patna** in connection with **Bikram P.S. Case No. 194 of 2014** on the following terms and conditions:-

- (i) A written undertaking would be given by the petitioner that he shall not only go to the



house of the Opposite Party No. 2, on **17th July, 2015**, to take her to his house but would also keep her with due respect and dignity, as a wife would deserve in the hands of the Husband and/or the family members, the petitioner would be granted provisional bail for a period of four weeks. It is made clear that if the petitioner goes to the naihar (parental home) of the Opposite Party No. 2 on **17th July, 2015**, he should be given due respect and the wife-Opposite Party No. 2 shall accompany him on **17th July, 2015**.

(ii) Both the petitioner and Opposite Party No. 2, after expiry of period of four weeks, shall again appear before the Court below and the Court below will make inquiry from Opposite Party No. 2, the wife, as to whether she was subjected to any cruelty, mentally or physically by her husband and his family members. If the Court finds that the wife-Opposite Party No. 2, was kept with due care and dignity and treated well by the husband and his family members the provisional bail of petitioner shall be extended for a period of four months but if the Opposite Party No. 2, alleges any further episode of mental or physical torture by the petitioner and his family members, the provisional bail of the petitioner shall be immediately cancelled and he

would be taken into custody.

(iii) Upon expiry of period of four months, the petitioner as well as Opposite Party No. 2 shall again appear before the Court below and if this time the Court below is satisfied that the Opposite Party No. 2 was kept with due care and dignity as a wife would deserve in the hands of the Husband and his family members, the provisional bail of petitioner shall be again extended now for a period of eight months. It goes without saying that even at this stage if the opposite party no. 2 alleges mental or physical torture caused to her by the petitioner and/or his family members the provisional bail of the petitioner shall be immediately cancelled and he would be taken into custody.

(iv) After this exercise of grant of provisional bail on three occasions namely for six weeks, three months and six months, if the Court below is satisfied in course of inquiry made from the Opposite Party No. 2 in presence of the petitioner that she no longer was subjected to any physical or mental torture, the provisional bail of the petitioner shall be confirmed but in the event of answer in negative by the opposite party no. 2 the provisional bail of the petitioner shall be cancelled and he would be taken into

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custody.

(vi) It is also made clear that if at any stage of the pendency of the trial the Opposite Party No. 2, alleges that she had been subjected to any physical or mental torture, the bail of the petitioner shall be cancelled and he would be taken into custody.

(vii) 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.

(viii) That the bailors shall also state on affidavit that they 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.

(ix) 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.

Ranjan/-
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(Mihir Kumar Jha, J)