

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49799 of 2014

Arising Out of PS.Case No. -264 Year- 2013 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

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Meena Devi Wife of Dinesh Prasad Gupta Resident of Village - Bhelahi,
P.S. Palanwa, District - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sarita Devi Wife of Late Anil Prasad Gupta, D/o Binod Prasad at present residing at village - Bhiswa, P.S. Pokhariya, District - Parsa (Nepal).

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Akhileshwar Kumar Shrivastva, Adv.

For the Opposite Party (State) : Mr. Sanjay Kr. Sharma (APP)

For the O.P. No.2 : Mr. Ram Kishun Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

4 16-07-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under Section 498(A) of the Indian Penal Code and a peculiar situation where the widow daughter-in-law comes out with an allegation that after death of her husband, it is her in-laws particularly mother-in-law, the petitioner, has been harassing and ill-treating her (complainant), this Court in keeping with report of mediator dated 2.7.2015 in Mediation Proceeding No. 437 of 2015 initially was not inclined to grant privilege anticipatory bail to the petitioner.

Learned counsel for the petitioner, in such a situation,



has come out to assure this Court in presence of the learned counsel for the opposite party no.2 that the opposite party no.2, her daughter-in-law as well as the grandson, out of the marriage of her son with the opposite party no.2, shall be taken full care of by the family and will be given due dignity and care that a widow daughter and a grand-son would deserve in the hands of the family members of the deceased son/father.

This Court, on a similar undertaking given also by the learned counsel for the opposite party no.2 that she along with her son are fully prepared to live with the family of the petitioner without any condition except that she and her son has to be looked after well by the petitioner and her other family members and in the same manner in which other family members are being looked after by the petitioner would direct for release of the petitioner on provisional bail for the present for a period of two months to watch her conduct towards opposite party no.2 and the minor child, her grandson.

Thus if the petitioner, Meena Devi surrenders before the court below within a period of four weeks from today, she shall be granted provisional bail only for a period of two months.

Upon completion of a period of two months, the opposite party no.2 as also the petitioner shall appear in the court

and if from enquiry made from the opposite party no.2, it is found by the court below that she and her son were treated well by her family members, the provisional bail shall again be extended this time by a period of four months.

After expiry of the aforesaid period of four months, the petitioner and opposite party no.2 shall again appear before the court below and if on making enquiry from the opposite party no.2 it is found by the court below that the opposite party no. 2 and her son were looked after in a proper befitting manner by the petitioner and her other family members the provisional bail of the petitioner shall again be extended, this time for a period of six months.

Upon completion of the aforesaid period of six months both the petitioner and opposite party no. 2 shall again appear before the court below and if the court below again on the basis of his making enquiry from the opposite party no. 2 is satisfied that the petitioner has behaved well with the opposite party no.2 and her son and there is no further complaint from the opposite party no.2 towards behavior of the petitioner, the provisional bail of the petitioner shall be confirmed.

It is, however, made clear that in the period of this one year, if at any point of time the opposite party no.2 complains



about the ill behavior of the petitioner and/or other family members towards her (opposite party no.2) and/or her son, the provisional bail of the petitioner shall be immediately cancelled and she will be taken into custody.

That being so, if the petitioner, namely, Meena Devi surrenders before the court below within a period of four weeks from today with an undertaking for keeping the opposite party no.2 and her son (grandson of the petitioner) with due respect and dignity in the house of the petitioner and that she would also take the opposite party no.2 along with her son to her own house for living together in a dignified manner she will be released on provisional bail initially for two months on furnishing bail bond on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Sub Divisional Judicial Magistrate, Motihari, East Champaran in connection with Tr. No. 1555 of 2014 (Complaint Case No. 264 of 2013), subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

- (i) That both the bailors will be a close relative of the petitioner, who will undertake 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 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 her 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 be well represented on each and every date in course of trial and if she fails to do so on two consecutive dates, her bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

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