

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50442 of 2016

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1. Gouri Shankar Sah, Son of Jageshwar Sah, Resident of Village- Harpur Pipra, P.S.- Mejorganj, District- Sitamarhi. At Present Residing at Hathkola, P.S.- Basti, District- Alipur, West Bengal.

.... Petitioner/s

Versus

1. The State of Bihar
2. Rani Devi, wife of Gouri Shankar Sah, Daughter of Ramaghya Sah, residing at Jadopur Bakhri, P.S. Dhaka, District- East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Mishra

For the Opposite Party/s : Mr. Sri Matloob Rab

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 23-11-2016

The present application has been filed for modification of the order dated 02.08.2016 passed in Cr. Misc. No. 32404 of 2016 to the extent of extending the period of provisional bail.

The petitioner being husband of the complainant was granted provisional anticipatory bail for three months in connection with Complaint Case No. 587 of 2015, wherein processes were directed to be issued after cognizance being taken under Sections 323, 498A, 504 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act. The petitioner was granted provisional anticipatory bail for three months on readiness of the petitioner to keep the complainant as wife with full dignity and honour and further submission that Matrimonial Suit No. 141 of 2015 has been filed for the

restitution of conjugal life. A statement to that effect has been made in para 10 of the petition which reads as follows:-

“That it is submitted that petitioner is husband of the complainant and is ready to keep the complainant with full dignity and accordingly filed a Matrimonial Suit No. 141 of 2015 for the restitution of conjugal life.”

It was submitted on behalf of the complainant that conciliation failed since petitioner was not ready to keep the complainant which gets reflected from the impugned order.

However, counsel for the petitioner contradicts the submission made on behalf of the counsel for the petitioner before learned Court below and submits that it is an error of record, though statement to that effect has not been made in the petition. The provisional bail of the petitioner was to be confirmed by learned Court below in three eventualities i.e. (i) if the matrimonial harmony is substantially restored or (ii) if the complainant fails to appear before the learned court below or (iii) if the complainant gets reluctant to reconcile the issue.

It is submitted by learned counsel for the complainant that in the matrimonial suit, subsequent to the passing of the provisional bail order by this Court, the petitioner refused to keep the complainant.

Considering the rival submissions of the

parties, since the petitioner was granted provisional anticipatory bail for three months vide order dated 02.08.2016 which lapsed on 01.11.2016, the present modification application has been preferred on 21.11.2016 and in view of the inconsistent misleading stand of the petitioner, this Court is not inclined to entertain the present modification application. However, if the petitioner files an affidavited undertaking before learned Court below that petitioner is ready to keep the complainant with dignity and honour, then learned Court below may consider the prayer for bail of the petitioner, if the petitioner surrenders within a period of three weeks in connection with Complaint Case No. 587 of 2015, pending in the Court of learned Sub-Divisional Judicial Magistrate, Sikrahna, Motihari, East Champaran.

Accordingly the modification application is disposed of.

(Dinesh Kumar Singh, J)

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