

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11078 of 2016

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Md. Khurshid @ Khurshid Alam Son of Mustafa Ansari Resident of
Village- Sunderpur , Police station Bikram , District Patna

.... Petitioner/s

Versus

1. The State of Bihar.
2. Afsana Pravin daughter of Md. Mahfuj Alam Resident of Village-
Sadikpur Police Station Maner District Patna.

.... Opposite Party/s

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 18-04-2016

The present application has been filed for modification of the earlier order dated 18.6.2015 passed in Cr. Misc. no. 18853 of 2015. By the said order the petitioner was granted provisional bail with the conditions as follows :-

- 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 by 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 custody.

- v) 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.
- vi) 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.
- vii) 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.
- viii) 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.”

It has been submitted that subsequently the compromise petition was filed in the court below, i.e., on

11.9.2015, which is Annexure-3 to the present application. Thereafter, the complainant and the mother of the complainant were examined in course of trial. Their deposition is Annexure-4 series to the present application where they have expressed that they do not want to pursue the matter. As per the compromise petition, one time settlement has been arrived at between the parties. It is further submitted that in light of the aforesaid facts and circumstances, the order dated 18.6.2015 passed in Cr. Misc. no. 18853 of 2015 be modified to the extent that the provisional bail granted to the petitioner be confirmed.

Considering the facts and circumstances that as one time settlement has already been made between the parties, the order dated 18.6.2015 passed in Cr. Misc. no. 18853 of 2015 is modified to the extent that the provisional bail granted to the petitioner is confirmed.

With the aforesaid modification the present application stands disposed of.

(Sudhir Singh, J)

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