

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35453 of 2016

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1. Badrul Hasan Son of Late Ashabul Hassan Resident of 06, Eden Hospital Road (Giri Babu Road), Police Station- Bahu Bazar, Kolkata-73

.... Petitioner/s

Versus

1. The State of Bihar.
2. Farida Sultana, wife of Badrul Hasan & Daughter of Late Abdul Hamid, presently residing at Vishambharpur Yelloth Kachahri Tola, Police Station- Musarigharari, District- Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satya Prakash

For the Opposite Party/s : Mr. Ramchandra Sahni

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 09-11-2016

The present application has been filed preferred for modification of order dated 08.02.2012 passed in Cr. Misc. No. 4032 of 2012 to the extent of confirming the provisional bail granted to the petitioner for a period of one year in Complaint Case No. 568 of 2010 wherein process has been directed to be issued after cognizance being taken for the offences punishable under Section 498A of the Indian Penal Code, pending in the court of learned Chief Judicial Magistrate, Samastipur on the undertaking of the petitioner being the husband of the complainant that he is ready to keep the complainant with dignity and honour. The provisional bail was to be confirmed by the learned court below within a period of one year on substantial restoration of the

matrimonial harmony or if the complainant deliberately refuses to reside with the petitioner.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant-opposite party no. 2 being performed on 25.07.2005 whereas sister of the petitioner namely, Tabassum Parveen marriage was solemnized with the brother of the complainant-opposite party no. 2 namely, Md. Jamshed Firdaus on 27.07.2005. The brother of opposite party no. 2's marriage with the sister of the petitioner got dissolved as she was being given talak on 01.04.2010 and declaration to that effect was also made. Similarly the petitioner also gave talak to the complainant on 31.03.2010 but this fact was not brought to the notice of the Court.

Keeping in view of the fact that the provisional bail was granted to the petitioner for one year vide order dated 08.02.2012 which got lapsed on 07.02.2013 whereas the present modification was filed on 17.08.2016, hence this Court is not inclined to entertain the prayer for modification of order dated 08.02.2012, but keeping in view of the nature of accusation and the petitioner has enjoyed the privilege of anticipatory bail for a considerable period, it is a case for consideration of prayer for bail, if the petitioner surrenders before the learned court below

within a period of six weeks from today. It is expected from the learned court below to dispose of the bail application of the petitioner preferably on the same day.

Accordingly, this application is disposed of with the above observation and direction.

(Dinesh Kumar Singh, J)

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