

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27258 of 2016

Arising Out of PS.Case No. -207 Year- 2015 Thana -SULTANGANJ District- PATNA

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Md. Obaidur Rahman @ Abdul Rahman son of Md. KHalipur Rahman
resident of Mohalla-Khushibagh,P.S. Sadar Purnea and District- Purnea
.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. N.K.Agrawal, Sr.Adv.
Mr. Mohammed Abu Haidar, Adv.
For the Opposite Party/s : Mr. Tapeswar Sharma, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

4 25-07-2016 Heard learned counsel for the parties.

The petitioner being the husband of the informant is languishing in custody since 5.5.2016 in a case registered for the offences punishable under sections 498A, 504/34, 323 and 379/34 of the Indian Penal Code.

The basic accusation is of torture.

Learned counsel for the petitioner submits that the petitioner admits his marriage with the informant on 5.5.2008 and birth of two children. It is further submitted that the informant filed Sultanganj P.S.Case No. 72/2014 with similar accusation of torture wherein the petitioner was granted anticipatory bail by the learned Sessions Judge, Patna on the condition that he will keep the informant with full dignity and honour. The petitioner was



directed to make payment of Rs.750/- per month in pursuance of the order dated 21.5.2015 passed by a Co-ordinate Bench of this court in Cr.Misc.No. 16698/2015 filed for quashing of the earlier criminal prosecution, wherein the matter was referred to Patna High Court Mediation and Conciliation Centre, Patna though the conciliation proceeding has concluded and Mediator's report is part of Cr.Misc.No. 16698 of 2015. Subsequently, the informant filed Cr.Misc.No. 23304/2015 with a prayer to cancel the anticipatory bail of the petitioner on the ground that the petitioner had violated the undertaking of keeping the informant with dignity given before the learned Sessions Judge, Patna but the said Cr.Misc.No. 23304/2015 was directed to be heard alongwith Cr.Misc.No. 16698/2015. The informant has also filed Guardianship Case No. 48/2015 before the Principal Judge, Family Court, Patna on 2.9.2015 claiming the guardianship of minor son. The informant also filed Cr.W.J.C.No. 526/2015 with a prayer for custody of the child but the same has been dismissed. Hence, under the circumstances the conciliation is not possible, at present. It is further submitted by the learned counsel for the petitioner that the investigation has already concluded.

It is submitted by the learned counsel for the informant that a wrong statement has been made in paragraph 3 of the



petition that the petitioner is accused in only one case being Sultanganj P.S.Case No. 72/2014, whereas the petitioner is also an accused in Sultanganj P.S.Case No. 4/2014 registered for the offences under sections 341, 342, 323, 354, 379/34 of the Indian Penal Code.

A supplementary affidavit has been filed on behalf of the petitioner that due to inadvertence the correct statement was not made in paragraph 3 of this petition but the petitioner is on bail in Sultanganj P.S.Case No. 4/2014.

It is further submitted by the learned counsel for the informant that after grant of anticipatory bail in the earlier police case the petitioner took inconsistent stand that the petitioner has given Talak to the informant on 21.3.2015 whereas this was not the stand of the petitioner at the time of grant of anticipatory bail in the earlier case when the petitioner undertook to keep the informant with full dignity and honour. It is further submitted by the learned counsel for the informant that the informant was badly assaulted as a result she received several injuries.

Considering the rival submissions of the parties, it does not appear that the issue is likely to be resolved at present. Since the investigation has already concluded, let the petitioner, abovenamed, be released on bail on furnishing bail bond of

Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the A.C.J.M., Patna City, Patna in Sultanganj P.S.Case No. 207/2015.

The bail bonds of the petitioner shall be accepted by the learned court below on filing of affidavit to the effect that the petitioner will regularly appear in every proceeding pending between the parties. The learned court below will be at liberty to cancel the bail bonds of the petitioner if the petitioner defaults on two consecutive occasions in any one of the proceedings.

(Dinesh Kumar Singh, J)

Surendra/-

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