

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15730 of 2014

Arising Out of PS.Case No. -258 Year- 2013 Thana -NALANDA COMPLAINT CASE District-
NALANDA (BIHARSHARIFF)

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Kamlesh Kumar Diwakar Son Of Arjun Prasad Resident Of Bokaro Steel
City, Sector No. 12a, Quarter No.120, P.S+ District- Bokaro, Jharkhand.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Abha Kumari D/O Yogendra Prasad Resident Of Bhatiyar, P.S- Harnaut,
Distt- Nalanda.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Parmanand Pd. Nr. Sahi

For the Opposite Party/s : Mr. Jitendra Kr.Roy 1(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 04-10-2016 Heard learned counsels for the petitioner and the State.

The petitioner being the husband of the complainant is apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance has been taken for the offences punishable under Section 498A of the Indian Penal Code.

The basic accusation is of torture.

It is submitted by the learned counsel for the petitioner that the petitioner admits his marriage with the complainant and is ready to keep her as wife with full dignity and honour, statement to that effect has been made in para 9 of the petition which reads as follows:-

“That the petitioner is still ready to keep her with full prestige and dignity and the petitioner never

ousted her rather she herself left the house.”

It appears that notices were issued to opposite party no.2 vide order dated 04.04.2014 when the petitioner was granted provisional anticipatory bail by a co-ordinate Bench of this Court. On appearance of the complainant/opposite party no.2, the matter was referred to Mediation Centre by a co-ordinary Bench of this Court vide order dated 01.04.2015. The petitioner was further directed to deposit ₹750 per month in the court below firstly within 15 days from the date of receipt of this order and subsequently by 15th of every month which the opposite party no.2 will be at liberty to withdraw without prejudice the right of the parties. In case of default the provisional anticipatory bail granted to the petitioner was directed to be automatically cancelled. The operative portion of the order dated 01.04.2015 reads as follows:-

“The petitioner volunteers to deposit ₹750/- (Seven Hundred Fifty Rupees) per month in the Court below firstly within 15 days from the date of receipt of this order and subsequently by 15th every month which the wife of the petitioner will be at liberty to withdraw without prejudice the right of the parties. The court below shall inform the wife of the petitioner about the present order. However, if the complainant/informant has a Bank Account or subsequently opens a Bank Account, the money shall be deposited in the Account and a receipt to this effect shall be filed by 15th every month in the Court below and in case he fails to do so his provisional anticipatory bail would be automatically cancelled.”

It is submitted by the learned counsel for the petitioner that that till date the petitioner is depositing ₹750/- per month and his bail bonds have not been cancelled as yet, though, statement to that effect has not been made in the petition.

It appears from interim report of the mediator dated 05.08.2015 that the dispute between the parties is likely to be resolved hence prayer has been made for extending the period of mediation. It is further submitted that though, final report is not on record but the mediation has failed. The matter was listed on 21.09.2016 but none appeared on behalf of opposite party no.2, hence this Court directed the counsel for the petitioner to serve notice on the counsel for opposite party no.2. Learned counsel for the petitioner submits that notice was given to Mr. Rudal Prasad, learned counsel appearing on behalf of opposite party no.2 having AOR No. 04620 on 29.09.2016, copy of the said notice has been produced, let it be kept on record but in spite of notice none is appearing on behalf of opposite party no.2.

Considering nature of accusation and present stand of the petitioner, the provisional anticipatory bail granted to the petitioner vide order dated 04.04.2014 is hereby confirmed provided it has automatically not been cancelled by operation of order dated 04.04.2014 and in that eventuality the bail of the

petitioner will be considered by learned court below on his
surrender.

Amrendra/-

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(Dinesh Kumar Singh, J)