

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11812 of 2017

=====

Rupesh Kumar Dubey S/o Nripendra Dubey, Resident of Village+ P.O.-
Lakhanpur, P.S.- Punpun, District- Patna at present Mohalla- Birgahpur,
P.S.- Jakkanpur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Mrs. Pushpa Devi W/o Sri Rupesh Kumar Dubey, D/o Banshidhari Pandey, Resident of Village- Lakhanpur, P.S. Punpun, District Patna at present residing at Village- Bishambharpur, P.S.- Bihta, District- Patna.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Praveen Kumar

For the Opposite Party/s : Mr. Sri Sunil Kumar Pandey

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 15-03-2017

The present application has been filed for modification of order dated 27.07.2016 passed in Cr. Misc. No. 30633 of 2016 to the extent of extending the period of surrender.

The factual background would unveil that the petitioner being the husband of the complainant was granted provisional anticipatory bail for four months vide order dated 08.04.2016 passed in Cr. Misc. No. 15852 of 2016 in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act. The provisional anticipatory bail was granted,



on the submission on behalf of the petitioner that the petitioner is ready to keep the complainant as wife with full dignity and honour, statement to that effect has been made in paragraph 12 of the main petition which reads as follows:-

“That the petitioner is ready to keep the complainant with full honour and dignity but the complainant did not ready to live in joint family of the petitione.”

The petitioner was granted provisional anticipatory bail for four months. The learned court below was directed to issue notice to the complainant for her appearance and on her appearance, the petitioner was supposed to take the complainant to keep her as wife with full dignity and honour. The provisional bail was to be confirmed by the learned court below in three eventualities (i) On substantial restoration of the matrimonial harmony within a period of four months or (ii) if the complainant fails to appear before the learned court below or (iii) if the complainant gets reluctant to reconcile the issue. Subsequently, Cr. Misc. No. 30633 of 2016 was preferred for modification of the order dated 08.04.2016 passed in Cr. Misc. No. 15852 of 2016 with a prayer for extending the period of surrender wherein vide order dated 27.07.2016 the period of surrender was extended for further three weeks.



The present modification application has also been filed with a prayer for extending the period of surrender whereas in paragraph no. 4 of the present modification application statement has been made to the effect that bail bond of the petitioner has been cancelled and warrant has been issued. Paragraph no. 4 of the present modification application reads as follows:-

“That it is humbly submitted that after furnishing the bail bond the petitioner for confirming the provisional bail and fulfill the conditions as laid down in order dated 08.04.2016 tried to his best to take her wife before court below by giving undertaking at Danapur but O. P. No. 2 along with her associates with the help of antisocial elements threatened and assaulted the petitioner and restrained him to file any petition to confirming provisional bail as a result the bail bond of petitioner has been cancelled and also issued warrant of arrest.”

In view of the above inconsistent stand of the petitioner, the present application appears to be thoroughly misconceived.

Let the learned court below consider the prayer for bail of the petitioner, if the petitioner surrenders before the learned court below within a period of six weeks from today in connection with Complaint Case No. 624C of 2015, pending in the court of learned Sub-divisional Judicial Magistrate,



Danapur, Patna.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J.)

DKS/

U		T	
---	--	---	--

