

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13291 of 2017

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Phani Bhushan Shahi @ Fani Bhushan Shahi Son of Madan Prasad Shahi,
Resident of Village- Madhuban Beshi, P.S.- Aurai, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Lalita Devi Wife of Fani Bhushan Shahi, Resident of Village-
Madhuban Beshi, P.S.- Aurai, District- Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bela Singh, Advocate
For the Opposite Party/s : Mr. Sri Ramchandra Sahani, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 19-04-2017 Heard learned counsel for the petitioner and the State.

The present application has been filed for modification of the order dated 21.07.2016 passed in Criminal Miscellaneous No. 18832/2016 to the extent of extending the period of provisional bail.

The petitioner was granted provisional anticipatory bail for six months in connection with Aurai P.S. Case No.159/2015, pending before the learned Judicial Magistrate, 1st Class, Muzaffarpur, registered for the offences punishable under sections 341, 323, 504, 494, 498A, 376/511/34 of the Indian Penal Code and section 3/4 of the Dowry Prohibition Act and section 3(1) (x) (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Since the factum of marriage and



birth of child were in dispute, the petitioner was granted provisional anticipatory bail for six months. The provisional anticipatory bail of the petitioner was to be confirmed by the learned Court below, if the DNA of the child does not match with the petitioner. But, in the eventuality of the DNA of the child not matching with the petitioner then the petitioner was supposed to surrender and pray for regular bail.

It is submitted by learned Counsel for the petitioner that since the court was not available, hence, the DNA sample could not be drawn.

It is submitted by learned counsel for the informant that though the Court was not available, but the petitioner delayed the drawing of the sample since he was insisting for DNA matching by pathology centre situated in the State of Bihar.

Considering the rival submissions of the parties, in the in interest of justice, the order dated 21.07.2016 is modified to the extent that the period of provisional bail is extended till 30th of July, 2017.

Both sides agree to appear before the learned Court below on 27th of April, 2017 when the learned Court below will fix the date for drawing of the DNA sample. The rest condition with regard to confirmation of provisional bail will be same as



indicated in the order dated 21.07.2016.

It is made clear that if the delay in getting the report is caused without any lapse on behalf of the petitioner then the learned court below will be at liberty to extend the period of provisional bail of the petitioner.

(Dinesh Kumar Singh, J)

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