

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28432 of 2017

Arising Out of PS. Case No.-10 Year-2015 Thana- MAHILA P.S. District- Samastipur

Amit Mahto, son of Bambhola Mahto, resident of Village- Mohanpur, P.S.-
Samastipur, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sabita Devi, wife of Amit Mahto, R/o Village- Mohanpur, P.S.- Samastipur at present Residing at D/o Sanichar Rai, Village- Kalyanpur (Souther Tole) Shishband) Ward No.2 P.S.- Vibhutipur, District- Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Daya Shankar Prasad Sinha, Adv.
For the state : Mr. J. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 15-11-2017

Heard.

The petitioner has renewed his prayer for anticipatory bail in connection with a case registered for the offence punishable under Sections 498A, 494, 379/34 of the Indian Penal Code.

The petitioner being, the husband of informant was granted provisional anticipatory bail for three months vide order dated 23.08.2016, passed in Criminal Miscellaneous No. 51764 of 2015. The petitioner admitted his marriage with the informant and expressed his willingness to keep her with dignity and honour, but the offer of the petitioner was not accepted by the informant since the petitioner performed second marriage. Though, it was admitted by the informant



that the petitioner is making payment of the maintenance amount of Rs. 2500/- per month in view of the order passed in Maintenance Case No. 862 of 2015, but at the same time it was alleged that he has not complied the order passed in Guardianship Case No.12 of 2015, wherein, he was directed to hand over the child to the informant. On submission of the petitioner that he is ready to comply the order passed in Guardianship Case No. 12 of 2015, he was directed to be released on provisional anticipatory bail for three months. The provisional anticipatory bail of the petitioner was to be confirmed by the learned Court below on filing proof with regard to compliance of orders passed in Maintenance Case as well as Guardianship Case. In the event of failing to comply either order, the petitioner was to surrender before the learned Court below

It appears that the petitioner failed to hand over the child in view of the order passed in Guardianship Case No. 12 of 2015, as a result, his provisional anticipatory bail was not confirmed. Hence, by operation of the earlier order, the present anticipatory bail application is not maintainable.

Learned Counsel for the petitioner further submits that now the petitioner has handed over the child



to the informant and is making payment of Rs.2500/- per months in view of the order passed in the maintenance case aforementioned.

In the circumstances, let the learned Court below consider the prayer for regular bail of the petitioner and preferably dispose of the same within a period of six weeks, after verifying from the record that the child has been handed over or up to date maintenance amount has been paid to the informant, if the petitioner surrenders before the learned Court below within a period of six weeks in connection with Samastipur P.S. Case No. 10 of 2015, pending before the learned SDJM, Samastipur.

Accordingly the application is disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

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