

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31231 of 2017

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Anubhav Gyan Srivastava @ Anubhav Gyan, S/o Gyaneshwar Prasad Srivastava, Resident of New Colony Dungri, P.S. – Chaibasa, District – West Singhbhum (Jharkhand), At present – Senior Executive (H.R.) Max Hospital, East Block Saket Branch, Delhi.

.... Petitioner/s

Versus

1. The State of Bihar
2. Akata Verma, D/o Sri Tarkeshwar Shankar Verma, Resident of Mohalla – Maharani Road, Nai Godam, P.S. – Kotwali, District – Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar

For the Opposite Party/s : Mr. Sri Nand Kumar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

03/ 26-07-2017

This matter has been listed for hearing out

of turn on the basis of mentioning slip filed by learned counsel for the petitioner, though, it is listed in the daily cause list dated 26.07.2017.

The present application has been filed for modification of order dated 16.08.2016 passed in Cr. Misc. No. 34560 of 2016 to the extent of extending the period of provisional anticipatory bail granted to the petitioner.

The petitioner being the husband of the informant was granted provisional anticipatory bail for six months vide order dated 16.08.2016 passed in Cr. Misc. No. 34560 of 2016 in a case registered under Sections 498A and



307 of the Indian Penal Code and sections 3 and 4 of Dowry Prohibition Act, on submission of learned counsel for the petitioner that the petitioner is ready to keep the informant as wife with full dignity and honour. Statement to that effect has been made in paragraph 16 of the main petition, which reads as follows:-

“That the petitioner is ready to keep his wife with full dignity and honour.”

The provisional bail was to be confirmed by the learned court below in three eventualities, i.e.,- (i) if the matrimonial harmony is substantially restored or (ii) if the informant fails to appear before the learned court below or (iii) if the informant deliberately gets reluctant to reconcile the issue.

The period of provisional bail was further extended vide order dated 29.03.2017 passed in Cr. Misc. No. 15148 of 2017 till 30.06.2017 as contained in Annexure-1. Since the reconciliation was going on between the parties before the learned court below and the learned court below was given liberty to pass appropriate order with regard to confirmation of provisional anticipatory bail within the parameters stipulated in order dated 16.08.2016 passed in Cr. Misc. No. 34560 of 2016. Since the reconciliation failed, hence, the present modification



application has been filed.

It is submitted by learned counsel for the petitioner that the order dated 30.06.2017 passed by learned Judicial Magistrate, Ist Class, Gaya in Trial No. 2303 of 2017 as contained in Annexure-4 to the supplementary affidavit reflects that the informant stated before the learned court below that she is ready to go with her husband provided if any untoward incident will happen to her, the accused as well as the learned Session Court will be responsible for the same. The relevant portion reads as follows:-

“Moreover the informant filed a petition dated 28.06.2017 wherein she stated that she was ready to go with her husband provided if any untoward incident happens to her, the accused as well as the instant court should be held accountable for it.”

The above stand of the informant suggests that she is reluctant to reconcile the issue. Hence, in the circumstances, the provisional bail be extended or confirmed.

Counsel for the informant submits that the issue could not be reconciled due to the apathetic attitude of the petitioner since the petitioner submitted a petition before the learned court below making clear statement that if during office hour the informant commits an offence for that she will be held



responsible. Moreover, the E-ticket as contained in Annexure-4 series to the counter affidavit reflects that the petitioner purchased railway tickets for himself and opposite party no. 2 but the petitioner only got confirmed his ticket, which shows that the petitioner was not inclined to reconcile the issue.

It is further submitted by learned counsel for the petitioner that the bail bond of the petitioner has not been cancelled.

The present application for modification was filed on 05.07.2017 whereas the petitioner's provisional bail was to lapse on 15.02.2017 which was further extended till 30.06.2017 vide order dated 29.03.2017 passed in Cr. Misc. No. 15148 of 2017 and thereafter till 16.08.2017 vide order dated 19.07.2017 passed in the present proceeding.

Considering the rival submissions of the parties, it appears that the issue is not likely to be reconciled at present. However, the petitioner is ready to make payment of Rs.5,000/- per month from September, 2017 to the informant by depositing the same in her bank account by second week of every succeeding month.

Counsel for the informant submits that the informant reluctantly accepts the offer and undertakes to



submit bank account number on affidavit before the learned court below within a period of three weeks.

Considering the present stand of the parties in order to save, at present, the informant from destitution and vagrancy with a lurking hope that the issue may reconcile in future, the provisional anticipatory bail granted to the petitioner vide order dated 16.08.2016 passed in Cr. Misc. No. 34560 of 2016 is, hereby, confirmed in connection with Gaya Kotwali P.S. Case No. 122 of 2016, pending in the court of learned Chief Judicial Magistrate, Gaya.

The aforementioned payment will be subject to any order passed in matrimonial, maintenance or connected proceedings.

Three consecutive defaults in making payment will give liberty to the informant to file application for cancellation of bail of the petitioner.

The present order, in no way, will preclude the parties to resolve the issue otherwise.

(Dinesh Kumar Singh, J.)

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