

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9059 of 2017

Arising Out of PS.Case No. -1290 Year- 2011 Thana -NALANDA COMPLAINT CASE District-
NALANDA (BIHARSHARIFF)

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1. Dabloo Kumar, S/o Late Vishwanath Prasad, R/o Moh- Macharhatta
Gali, Infront of Maa Annapurna Mandir, P.S.- Khajekala, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Smt. Rima Kumari, aged about 33 years, W/o Dabloo Kumar, D/o
Mitlesh Prasad, R/o Sakin- Amber Sikhana, Bihar Sharif, Nalanda.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amit

For the Opposite Party/s : Smt. Anita Kumari Singh

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

2 30-08-2017 Heard learned counsels for the petitioner and the

State.

Though the present application has been filed under

Section 438 of the Code of Criminal Procedure, renewing the

prayer for anticipatory bail of the petitioner, however, prayer has

been made in paragraph 1 of the petition for confirming the

provisional anticipatory bail granted to the petitioner vide order

dated 29.8.2013 passed in Cr. Misc. No.23246 of 2013.

The learned counsel for the petitioner submits that

the application has been labelled under section 438 of the Cr.P.C.

but the present application has virtually been filed for modification

of order dated 29.8.2013 passed in Cr. Misc. No.23246 of 2013 to



the extent of confirming the provisional bail.

The petitioner, being the husband of the complainant-Opposite Party No. 2, was granted provisional anticipatory bail vide order dated 29.8.2013 passed in Cr. Misc. No.23246 of 2013 for one year in the complaint case, wherein processes were directed to be issued after cognizance being taken for the offences punishable under Sections 323,379 and 498A of the IPC and Section 4 of Dowry Prohibition Act.

The petitioner was granted provisional anticipatory bail on submission on his behalf that he is ready to keep the complainant-Opposite Party no. 2 as wife with full dignity and honour. Both the sides agreed to appear before the learned Court below on 30.9.2013, when the petitioner was to take the complainant-opposite party no.2 to the matrimonial house. The provisional anticipatory bail was to be confirmed in three eventualities, i.e., (i) if the matrimonial harmony is substantially restored within one year, or (ii) the complainant-O.P. No. 2 deliberately refuses to reside with the petitioner, or (iii) if the complainant fails to appear before the learned Court below.

It is submitted by learned counsel for the petitioner that in pursuance to the order of this Court, the petitioner took the complainant-Opposite Party no. 2 and the child to his house, but she stayed in the house of the petitioner only for two months and



thereafter, she deserted the petitioner. Consequently, the petitioner filed Matrimonial Suit No. 5628 of 2014 with a prayer for divorce but he is still ready to keep the complainant as wife with dignity and honour.

It appears that the provisional anticipatory bail of the petitioner got lapsed on 28.8.2014, whereas the present application got registered on 21.2.2017. Hence, this Court is not inclined to consider the prayer for modification. However, in view of the nature of accusation and the fact that the petitioner is ready to keep the complainant-Opposite Party no. 2 as wife with full dignity and honour, let the learned Court below consider the prayer of the petitioner for bail and preferably, dispose of the bail application on the same day, in case he surrenders within six weeks from today in connection with Complaint Case No. 1290C of 2011, pending in the Court of the learned SDJM, Nalanda at Biharsharif.

With the aforesaid observation/direction, this application is disposed of.

(Dinesh Kumar Singh, J)

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