

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.56499 of 2017

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Seema Kumari, Daughter of Ram Sharan Prasad, Resident of Village-
Kasturi Bigha, Police Station- Kashichak in the District of Nawada.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Vikash Kumar, Son of Vishundhari Prasad, Resident of Village-
Usaripar, Police station- Pakaribarawan in the district of Nawada.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Advocate

For the Opposite Party/s : Mr. J.N. Thakur, Advocate

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

ORAL ORDER

02/ 22-11-2017

Heard Mr. Sunil Kumar, learned counsel for the

petitioner and Mr. J.N. Thakur, learned APP for the State.

The present application has been filed for modification of order dated 08.11.2017 passed in Cr. Misc. No. 52624 of 2017 to the extent that the period of provisional bail may not be extended and the learned Court below may not be given direction to confirm the provisional bail of opposite party no. 2 since the said order was passed without noticing the complainant-petitioner.

The opposite party no. 2, being the husband of the petitioner, was granted provisional anticipatory bail for six months vide order dated 09.12.2016 passed in Cr. Misc. No. 38782 of 2016 in Complaint Case No. 6615 of 2015 filed with accusation



under Sections 313, 323, 406, 498A of the Indian Penal Code and Sections 3/4 of Dowry Prohibition Act, though the process has been directed to be issued after cognizance being taken for the offence punishable under Section 498A of the Indian Penal Code only. The provisional bail of opposite party no. 2 was confirmed by the learned Court below if on conclusion of the enquiry it is found that opposite party no. 2 has not performed marriage with the complainant-petitioner but if it is found otherwise then the opposite party no. 2 was supposed to surrender and pray for regular bail.

Subsequently, opposite party no. 2 filed Cr. Misc. No. 52624 of 2017 for modification of order dated 09.12.2016 passed in Cr. Misc. No. 38782 of 2016. This Court attention was drawn towards the order dated 23.09.2017 passed by the learned ACJM VI, Nawada, whereby the learned Court below came to the conclusion that opposite party no. 2 was forced to perform marriage but neither the consent of opposite party no. 2 nor his family members was obtained. In the circumstances, this Court directed the learned Court below to confirm the provisional bail of opposite party no. 2, if the bail bonds of opposite party no. 2 have not been cancelled and extended the period of provisional bail till 30th November, 2017 but in the eventuality of bail bonds of



opposite party no. 2 being already cancelled then opposite party no. 2 was directed to surrender and pray for regular bail.

It is submitted by learned counsel for the petitioner that the bail bonds of opposite party no. 2 have not been cancelled, but vide order dated 08.11.2017 passed in Cr. Misc. No. 52624 of 2017 the period of provisional bail of opposite party no. 2 was extended with liberty to learned Court below to confirm the provisional bail without noticing the petitioner.

Considering the fact that the provisional bail was granted to opposite party no. 2 initially vide order dated 09.12.2016 passed in Cr. Misc. Nos. 38782 of 2016 and 38388 of 2016 after hearing the counsel for the petitioner, whereby the other family members of opposite party no. 2 were granted anticipatory bail and only opposite party no. 2 was granted provisional anticipatory bail since there was dispute with regard to factum of marriage. Hence, on merits the bail of opposite party no. 2 was considered but since the factum of the marriage was to be verified by the learned Court below hence in such circumstance, the liberty was given to learned Court below to confirm the provisional bail. However, the order of learned Court below dated 23.09.2017 reflects that opposite party no. 2 was forced to marry the petitioner. In the circumstances, this Court did not feel inclined to



issue notice to the complainant-petitioner and extended the period of provisional anticipatory bail and directed the learned Court below to confirm the same if the bail bonds of opposite party no. 2 had not been cancelled.

In the circumstances, this Court finds no merit in this modification application and accordingly, it is dismissed.

(Dinesh Kumar Singh, J)

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