

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.3154 of 2017

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Alok Bharti, Son of Anup Lal Sah, Resident of Village Neemchak, P.S.
Tajpur, District- Samastipur.

.... Petitioner/s

Versus

The State of Bihar.

Jyoti Raj, daughter of Shri Umesh Prasad Sah, Resident of Village Mahua,
Singhrail, P.S. Mahua, District- Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar

For the Opposite Party/s : Mr. Sri Lakshmi Kant Sharma

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

05/ 19-08-2017

The present application has been filed for
modification of order dated 30.09.2016 passed in Cr. Misc. No.
43264 of 2016 to the extent of confirming the provisional
anticipatory bail granted to the petitioner.

The petitioner, being the husband of the
informant, preferred Cr. Misc. No. 43264 of 2016 in connection
with Mahua P.S. Case No. 294 of 2016 registered for the
offences punishable under Sections 498A, 323, 341, 379,
504/34 of the Indian Penal Code and Sections 3/4 of Dowry
Prohibition Act, pending in the Court of learned Chief Judicial



Magistrate, Vaishali at Hajipur, with prayer for anticipatory bail, admitting the marriage of petitioner and opposite party no. 2 and birth of a male child. The further case of the petitioner was that the informant herself deserted the petitioner as she was not allowing the parents of the petitioner to reside with the petitioner. However, the petitioner is ready to keep the informant as wife with full dignity and honour. Statement to that effect has been made in paragraph 21 of the main petition which reads as follows:-

“That without any just cause and excuse the informant left the consortium of her husband. Despite of this attitude of informant the petitioner is still ready to keep informant and hi son with him with all honour and dignity”

Considering the stand of the petitioner, the petitioner was granted provisional anticipatory bail for six months and this Court directed the learned Court below to issue notice to the informant-opposite party no. 2 for her appearance. On her appearance, the petitioner was supposed to take the informant to keep her as wife with full dignity and honour. The provisional anticipatory bail was to be confirmed by the learned



Court below in three eventualities (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 gets reluctant to reconcile the issue.

Before expiry of the period of provisional anticipatory bail, the present modification application was registered on 24.01.2017 taking a stand that thirty days after passing of the order for provisional anticipatory bail, the informant-opposite party no. 2 wrote a letter to the Deputy Chief Engineer, the employer of the petitioner, levelling frivolous accusations by the informant, as contained in Annexure-2 of the modification application.

Learned Senior Counsel for the petitioner draw my attention to the order dated 16.11.2016 passed by learned Chief Judicial Magistrate, Vaishali at Hajipur, which also reflects that the informant alleged that the petitioner is a man of immoral character and he used to torture and compelled the informant to have physical relationship with other male persons. All these facts suggest that the informant is not inclined for resumption of the conjugal life.

On the other hand, learned counsel for the informant submits that the informant has always been ready for



resumption of conjugal life and the order dated 16.11.2016, passed by learned Chief Judicial Magistrate, Vaishali at Hajipur in Mahua P.S. Case No. 294 of 2016, which has been brought by way of counter affidavit, reflects that several opportunities were given to the petitioner for complying the order of this Court dated 30.09.2016 passed in Cr. Misc. No. 43264 of 2016, but the petitioner deliberately did not appear before the learned Court below. The informant is still ready to resume the conjugal life. She is facing financial hardship in maintaining herself and the minor child.

Considering the rival submissions of the parties and the contentions raised from both the sides, it appears that both the petitioner and the informant, are actually not inclined for reconciling the issue at present. However, in alternative, learned Senior Counsel for the petitioner submits that the petitioner is ready to make payment of Rs.10,000/- per month from September, 2017 to the informant-opposite party no. 2 by depositing the same in her bank account by second week of every succeeding month.

Counsel for the informant-opposite party no.2 submits that the informant is reluctantly ready to accept the offer and undertakes to submit her bank account number on



affidavit before the learned Court below within a period of three weeks.

It is submitted by learned Senior Counsel for the petitioner that the bail bond of the petitioner has not been cancelled as yet.

Considering the present stand of the parties, which will, at least, for the present, save the informant and minor child from destitution and vagrancy, with a lurking hope that the issue may reconcile in future, the period of provisional anticipatory bail granted to the petitioner vide order dated 30.09.2016 passed in Cr. Misc. No. 43264 of 2016 is extended till 30th September, 2017.

The provisional bail will be confirmed by the learned Court below on deposit of monthly amount for September, 2017 and filing of an affidavit that the petitioner will deposit the amount regularly.

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

Three consecutive defaults in making payment will give liberty to the informant-opposite party no. 2 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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