

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15581 of 2017

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1. JITENDRA KUMAR JHA @JITENDRA JHA @ JITENDRA KUMAR
Son of Late Achchuta Nand Jha, Resident of Village- Bhandar, P.O.+ P.S.-
Dhaka, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Archana Devi, D/o Late Aheddi Thakur, Resident of Village+ P.O.-
Bishanpur Taiyab, Tehsil, District- Muzaffarpur, Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vinay Mistry, Advocate.

For the Opposite Party/s : Mr. Sri Akhileshwar Dayal, APP.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

5 13-09-2017 Heard both sides.

The petitioner apprehends his arrest in connection with Dhaka P.S. Case No. 148 of 2012, registered for the offences punishable under Sections 498(A), 323, 307, 406, 504 and 34 of the Indian Penal Code.

The prayer for anticipatory bail of the petitioner was earlier allowed vide order dated 27.03.2014, passed in Cr. Misc. No. 30856 of 2013. Learned counsel for the petitioner submits that petitioner was granted provisional anticipatory bail for six months but thereafter the petitioner filed modification petition bearing Cr. Misc. No. 32446 of 2015. While disposing of the modification petition the court below was directed to make all efforts to resolve the dispute between husband and wife and if the dispute is



resolved the court below shall pass order on anticipatory bail of the petitioner after three months but dispute between the husband and wife could not be resolved within three months and consequently the bail bond of the petitioner was cancelled by order dated 13.02.2017 and non bailable warrant was issued against the petitioner. Learned counsel for the petitioner submits that petitioner was granted anticipatory bail in another case lodged by his wife under Section 498(A) of the IPC. It appears from the record that the petitioner remained on provisional anticipatory bail and the court below made efforts for resolving the dispute but the dispute could not be resolved due to the fact that the wife could not appear in court during three months.

Learned counsel for the petitioner submits that it is not the fault of the petitioner. The petitioner was always attending the court on each and every date but the wife did not turn up and the learned Judicial Magistrate has illegally cancelled the bail bond of the petitioner. Learned counsel for the informant however, vehemently opposed the prayer for anticipatory bail and submitted that the petitioner should surrender in the court below and petition under Section 438 is not maintainable.

Of course, the petitioner surrendered in the court below in pursuance of the order of this court, when he was granted provisional anticipatory bail, with a direction that the court below



shall make all efforts for resolution of dispute between the husband and the wife and during that period the petitioner appeared on each and every date but the wife did not turn up as she was not ready to live with her husband and again the period for anticipatory bail was extended for three months with direction to the court below to make all efforts for resolution of the dispute but within that three months the wife never appeared.

It appears that the learned court below without taking into consideration the fact of willingness of the petitioner to keep his wife cancelled the bail bond of the petitioner. Therefore, this petition is disposed of, with a direction to the court below that if petitioner surrenders in the court below, the court below shall grant him bail to his own satisfaction as he made all efforts but his wife did not appear for reconciliation and she, thus, appears to be not willing to live with her husband.

(Prabhat Kumar Jha, J)

siddharth/-

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