

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23937 of 2017

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Md. Zishan Ali Son of Md. Obaidur Rahman, Resident of Masuda Bherihar Toli, P.S. Sakari, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. Rijwana Khatoon, Wife of Md. Zishan Ali, D/o Navi Hasan, Resident of Village – Maksuda, Bherihar Toli, P.S. – Sakari, District – Madhubani.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav

For the Opposite Party/s : Mr. Sri Shyameshwar Dayal

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

03/ 01-11-2017

The present application has been filed for modification of the order dated 27.10.2016 passed in Cr. Misc. No. 29863 of 2016 to the extent of extending the period of provisional anticipatory bail of the petitioner.

The petitioner was granted provisional anticipatory bail in a complaint case, wherein processes have been directed to be issued after cognizance being taken for the offences punishable under Section 498A of the Indian Penal Code and Sections 3/4 of Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of the dowry demand.

The petitioner denies the factum of marriage.



However, the complainant claims to have married with the petitioner on 02.11.2014 and she is still ready to resume the conjugal life. Though, the petitioner was granted provisional anticipatory bail for six months when the learned Court below was directed to conduct an enquiry with regard to the factum of marriage. If the learned Court below, prima facie, comes to a conclusion that the petitioner was never married with the complainant then the provisional bail of the petitioner was directed to be confirmed by the learned Court below, but if the learned Court below comes to a conclusion otherwise then the petitioner was supposed to surrender and pray for regular bail.

It is submitted by learned counsel for the petitioner that till date the enquiry has not been concluded and hence, the present modification application has been filed.

It is submitted by learned counsel for the complainant that the Probation Officer during enquiry has found that the petitioner has performed second marriage.

Considering the fact that the period of provisional bail got lapsed on 26.04.2016, whereas the present modification application got registered on 15.05.2017, this Court is not inclined to interfere.

However, considering the fact that the factum



of marriage is in dispute, it is a case for consideration of prayer for regular bail by the learned Court below, if the petitioner surrenders before the learned Court below within a period of six weeks from today in connection with C.R. Case No. 712 of 2015/T.R. No. 706 of 2015, pending in the Court of learned ACJM, Madhubani.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J)

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