

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28903 of 2017

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Sonalal Mahto, Son of Sri Fulena Mahto, Resident of Village- Senwariya,
P.S.- Majhauria, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sita Devi, W/o Sri Sonalal Mahto, D/o Sri Kanhai Mahto, Resident of
Village- Lohiya Math, Tola, Sah Malwa, P.S.- Harsidhi, District- East
Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma

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

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

02/ 30-08-2017

This matter has been taken up out of turn on the
prayer of the learned counsel for the petitioner.

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

The present application has been filed for
modification of order dated 18.12.2015 passed in Cr. Misc. No.
57159 of 2015 to the extent of confirming the provisional bail
granted to the petitioner.

The petitioner, being the husband of the
informant, was granted provisional bail for a period of one year
vide order dated 18.12.2015 passed in Cr. Misc. No. 57159 of
2015 in connection with a case registered for the offences



punishable under Sections 498A, 341, 323, 504/34 of the Indian Penal Code and Sections 3/4 of Dowry Prohibition Act.

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

On submission of the petitioner that he is ready to keep the informant as wife with full dignity and honour and a statement to that effect has been made in paragraph 10 of the main petition, which reads as follows:-

“That be that as it may, the petitioner has always been/is still ready to keep her with full dignity and honour, respect and comfort, safety and security.”

The petitioner was granted provisional anticipatory bail with liberty to learned Court below to issue notice to the informant for her appearance and 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.



It is submitted by learned counsel for the petitioner that the order sheet of the learned Court below reflects that the notices were issued to the informant vide orders dated 15.03.2016, 12.04.2016 but the order dated 12.05.2016 reflects that none appeared on behalf of the informant. However, the orders dated 22.10.2016, 27.10.2016, 05.01.2017 reflect that the petitioner always prayed for confirmation of his bail but none of the dates the informant appeared. However, the various orders passed in Maintenance Case No. 34 of 2016 has been brought on record as Annexure-4 which reflects that in the maintenance proceeding informant is appearing regularly. Hence, the present application for confirmation of the provisional anticipatory bail.

Considering the fact that the period of provisional anticipatory bail of the petitioner lapsed on 17.12.2016, whereas the present modification application got registered on 23.06.2017, this Court is not inclined to modify the earlier order. However, keeping in view the nature of accusation coupled with the fact that the petitioner has remained on anticipatory bail for a considerable period and the learned Court below has failed to pass order confirming the provisional bail in case of non-appearance of the informant, it is a case for consideration of prayer for regular bail, if the petitioner surrenders before the learned Court below within a



period of six weeks from today in connection with Majhauria P.S. Case No. 369 of 2014, pending in the court of learned CJM, West Champaran at Bettiah. It is expected from the learned Court below to dispose of the bail application of the petitioner preferably on the same day.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J)

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