

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 2030 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- SIWAN

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Sunil Kumar Singh, S/o Sri Yogendra Singh, Resident of Village - Sarna Gulami
Rai Ka Tola, P.O. - Biswaniya, P.S. - Darauli, District - Siwan

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of Home, New Sachivalay, Patna.
2. Smt. Sunita Rai, D/o Sri Dhruv Deo Rai, Village - Semariya, P.O. - Semariya, P.S. - Nautan, Dist. - Siwan

.... Respondents

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Appearance :

For the Petitioner : Mr. Sumit Kumar Jha, Advocate

For the Respondents : Mr. Sheo Shankar Prasad, S.C. VIII

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 14-11-2017

Heard learned counsel for the parties.

This writ application has been preferred for setting aside the conditional order dated 18.07.2017 whereby anticipatory bail has been granted to the petitioner by the learned Sessions Judge, Siwan in A.B.P. No. 170 of 2017 in connection with Complaint Case No. 637 of 2013 brought by the wife of the petitioner against the petitioner and other relations for offences under Section 498A of the Indian Penal Code and other offences of the Indian Penal Code as well as Dowry Prohibition Act.

The bail was granted with condition that the petitioner, who is doing job in Indian Navy, would pay Rs.15,000/- as interim maintenance to the wife as well as the only son who is school going.



Learned counsel for the petitioner submits that a similar matter was considered by the Hon'ble Apex Court in **Munish Bhasin & Others vs. State (Government of NCT of Delhi) & Another** reported in **2009(4) SCC 45** and it was held that the Court considering the prayer under Section 438 Cr.P.C. should not travel beyond the requirement of conditions under Section 438(2) Cr.P.C. nor should impose onerous condition.

According to the learned counsel, the order of grant interim maintenance is not a condition required by Section 438 Cr.P.C., hence, the same is bad in law.

Considering the nature of relationship between the parties and nature of the order, this Court is not inclined to interfere in the matter. However, the matter is being sent to the court below to consider the prayer of the petitioner in the light of the judgment aforesaid.

With the aforesaid observation, this application stands disposed of.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.11.2017
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