

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25541 of 2017

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Kafilur Rahman

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nand Kishore Prasad Sinha,
Advocate

For the Opposite Party/s : Mr. Khurshid Anwar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 05-07-2017

Heard the learned counsel for the parties.

The present application has been filed for modification of the order dated 28.09.2016 passed in Cr. Misc. No. 42786 of 2016, as contained in Annexure-1, to the extent of confirming the provisional anticipatory bail.

The petitioner being the husband of the informant preferred Cr. Misc. No. 42786 of 2016 with a prayer for anticipatory bail in a case registered for the offence punishable under Section 498A of the IPC.

The basic accusation in the FIR is that after eight years of marriage, the torture was inflicted to the informant and attempt was made by the petitioner to kill the informant by causing burn injury though no injury was caused to her.

On submission of the petitioner that he is ready to keep the informant as wife and statement to that effect being made in



paragraph 11 of the petition which reads as under-

“That the petitioner is still ready to keep her wife Naseema Praveen with all honour and dignity.”

On offer being accepted by the informant, the petitioner was granted provisional anticipatory bail for four months, when both the petitioner and the informant agreed to appear before the learned Court below on 20th September, 2016 and 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 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 of the learned Court below dated 20.10.2016, passed in Gaya Kotwali P.S. Case No. 127 of 2016, as contained in Annexure-2, reflects that the petitioner appeared but the informant failed to appear before the learned court below. Thereafter, the petitioner filed a petition on 16.02.2017 before the learned Court below for confirming the provisional anticipatory bail. A rejoinder to the said petition was filed by the informant on 18.03.2017 opposing the prayer of the petitioner. The order of the learned



Judicial Magistrate Ist Class, Gaya dated 18.03.2017 reflects that the petitioner appeared and it was submitted on behalf of the informant that the informant is ready to go with the petitioner but she fears risk of her life and sought guarantee of her life and limb, upon which, learned counsel for the petitioner submitted that the petitioner is ready to keep the informant safely with full dignity and honour but such guarantee in actual sense is not practically feasible. Accordingly, the learned Court below rejected the petition of the petitioner dated 16.02.2017 as not maintainable.

It appears that in the meantime, the petitioner preferred Cr. Misc. No. 23402 of 2017 with a prayer for anticipatory bail which was dismissed as withdrawn vide order dated 15.05.2017 passed by a Bench of this Court as contained in Annexure 3.

Considering the fact that the petitioner was granted provisional anticipatory bail for four months vide order dated 28.09.2016 passed in Cr. Misc. No. 42786 of 2016, which got lapsed on 27.01.2017 whereas, the present modification application was filed on 23.05.2017, moreover, the petitioner preferred another application for grant of anticipatory bail, which was dismissed as withdrawn, this Court is not inclined to modify the earlier order.

However, from the purport of the order dated



18.03.2017 passed by the learned Judicial Magistrate Ist Class, Gaya, it appears that the issue could not be reconciled due to the reluctance and unreasonable condition put by the informant. Hence, in view of this Court, that is a ground for consideration of prayer of the petitioner for regular bail in case the petitioner surrenders within a period of six weeks from the date of receipt of this order in connection with the aforementioned case. It is expected from the learned Court below to dispose of the bail application of the petitioner preferably on the same day.

With the aforesaid observation/direction, this application stands disposed of.

(Dinesh Kumar Singh, J)

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