

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37743 of 2017

Arising Out of PS. Case No.- Year- Thana- District- Jehanabad

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Santosh Kumar Son of Sri munna , R/o Mohalla- Panchmahalla, P.S.-
Jehanabad, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sabita Kumari

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari
For the Opposite Party/s : Mr. SMT. GULNAR BEGAM

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 10-01-2018 Heard learned counsels for the parties.

As prayed for, learned counsel for the petitioner is permitted to make necessary correction in the prayer portion of the petition.

The present application has been filed for modification of order dated 29.1.2016 passed in Cr. Misc. No. 54071 of 2015 to the extent of confirming the provisional anticipatory bail.

The petitioner being the husband of the informant was granted provisional anticipatory bail for one year vide order dated 29.1.2016 passed in Cr. Misc. No. 54071 of 2015 in a case registered for the offences punishable under Sections 498A,379,323,341,504 and 313/34 of the IPC and sections 3 and 4 of the Dowry Prohibition Act on the admission and



submission of the petitioner that he is married with the informant and is willing to keep her as wife with full dignity and honour. Statement to that effect was made in paragraph 8 of the main application.

Learned court below was supposed to issue notice to the informant. The provisional bail of the petitioner 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 in pursuance to this court's order, the petitioner took the informant to his place of employment at Delhi but on some flimsy ground, she deserted the petitioner and lodged Jehanabad Mahila P.S. Case No. 49 of 2016 with accusation under sections 341,323,195(A),504,307,498A and 506/34 of the IPC and Section 4 of the Dowry Prohibition Act wherein the petitioner remained in custody for two months and ultimately was granted bail by this court vide order dated 27.10.2016 passed in Cr. Misc. No. 46607 of 2016, as contained in Annexure 6. Hence, now the question of the issue being reconciled does not arise. Moreover, the bail bond of the petitioner has not been cancelled.



Hence, the present application for modification for confirmation of the provisional anticipatory bail of the petitioner.

Learned counsel for the informant submits that the petitioner failed to keep her with dignity and honour and, thereby, has failed to comply the undertaking given before this Court and consequently, misused the privilege of anticipatory bail.

Considering the rival submission of learned counsels for the parties, this court is reluctant to interfere on two counts; firstly, that the period of provisional anticipatory bail of the petitioner got lapsed on 28.1.2017, whereas the present modification application has been filed on 8.8.2017 and secondly, that prior to lapse of the period of provisional anticipatory bail the petitioner went into custody in subsequent case lodged by the informant, i.e., Jehanabad Mahila P.S. Case No. 49 of 2016 registered on 1.9.2016. However, keeping in view the fact that on account of subsequent case lodged by the informant, it does not appear that the issue will be reconciled between the parties, since, in the case lodged by the informant with graver accusation, the petitioner has been granted bail and no useful purpose will be served in remanding the petitioner to custody again.



In the circumstances, this application is disposed of with liberty to the petitioner to surrender before the learned court below within six weeks and pray for regular bail and the learned court below is expected to consider the prayer of the petitioner for regular bail, preferably on the same day, in connection with Nawada Mahila P.S. Case No. 29 of 2015 pending in the court of the learned SDJM, Nawada.

(Dinesh Kumar Singh, J)

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