

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15519 of 2017

Arising Out of PS.Case No. -1135 Year- 2013 Thana -JEHANABAD COMPLAINT CASE District-
JEHANABAD

=====

Md. Wasim @ Md. Wasim Alam S/o Late Fazal Haque R/o House No. L - 207, G/F B/P Gali No. - 7, Sangam Vihar, P.S. - Sangam Vihar Near Batra Hospital, New Delhi - 62 At present residing at Village - Nawadih Bari Chak, P.S. - Aurangabad, District - Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Shamima W/o Md. Wasim R/o Village - Sheikh Alam Chak, P.O. + P.S. - Jehanabad, District - Jehanabad.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar

For the Opposite Party/s : Mr. Sri Nawal Kishore Prasad

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 17-01-2018

Heard learned counsel for the petitioner and learned APP for the State.

The petitioner, being the husband of the complainant, has renewed the prayer for anticipatory bail in a complaint case, wherein processes have been directed to be issued after cognizance being taken for the offences punishable under Sections 323, 504, 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 was granted provisional



anticipatory bail for one year vide order dated 16.12.2014 passed in Cr. Misc. No. 44358 of 2014 on the submission that the petitioner and complainant are ready to resume the conjugal life and both shall appear before the learned Court below on 19th of January, 2015 when the petitioner was supposed to take the complainant to keep her as wife with full dignity and honour.

The provisional bail was to be confirmed by the learned Court below in three eventualities: (i) if the matrimonial harmony is substantially restored within one year; or (ii) if the complainant fails to appear before learned Court below or (iii) if the complainant gets reluctant to reconcile the issue.

It is submitted by learned counsel for the petitioner that the petitioner could not appear on 19th of January, 2015. However, subsequently he filed a petition for confirmation of the provisional bail on 05.12.2015 before the learned Court below but before filing of the petition by the petitioner, the complainant filed a petition before the learned Court below on 23.02.2015 and consequently trial commenced. Before expiry of the period of provisional bail two witnesses were examined and in the circumstances, the issue could not be reconciled. The petitioner's prayer for confirmation of provisional bail was rejected by the learned Court below on 15.01.2016, as contained in



Annexure-3. It is further submitted by learned counsel for the petitioner that now the processes under Sections 82 and 83 Cr.P.C. have been issued and petitioner is ready to co-operate in the trial.

Mr. J.N. Thakur, learned counsel for the State, however, submits that the period of provisional bail of the petitioner has already been lapsed.

Considering the aforesaid facts, this Court is not inclined to entertain the second anticipatory bail application and hence, this Court is also not inclined to issue notice to opposite party no. 2, the complainant. But, keeping in view the fact that the documents on record suggest that both the petitioner and the complainant made no endeavour to resolve the issue rather the complainant contrary to her stand before this Court chose to get the trial conducted. Hence, the issue could not be resolved between the parties.

In the circumstances, this Court feels that no useful purpose will be served in allowing the petitioner to go into custody.

Accordingly, this application is disposed of with liberty to the petitioner to surrender before the learned Court below within a period of six weeks from today when the learned Court below will consider the prayer for regular bail of the



petitioner in connection with Complaint Case No. 1135 of 2013, pending in the Court of learned Sub-divisional Judicial Magistrate, Jehanabad. It is expected from the learned Court below to consider the bail application of the petitioner preferably on the same day so that the trial may conclude.

(Dinesh Kumar Singh, J)

DKS/-

U		T	
---	--	---	--

