

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29839 of 2018
In
Criminal Miscellaneous No.24957 of 2016

Arising Out of PS. Case No.- Year- Thana- District- East Champaran

=====

Naseem Khan @ Naseem Ahmad, Son of Md. Motahir Khan @ Mosahiruddin Ahmade, Resident of Village- Enerwa, P.S.- Ramgarhwa, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sabbah Praveen, Wife of Naseem Khan @ Naseem Ahmad, D/o Javed Khan, Resident of Village- Banjariya, P.S.- Banjariya, District- East Champaran.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh

For the Opposite Party/s : Mr. Sri Shailendra Kumar Singh

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 20-06-2018

Heard learned counsels for the parties.

The present application has been filed for modification of order dated 20.6.2016 passed in Cr. Misc. No. 24957 of 2016 to the extent of extending the period of provisional anticipatory bail granted for six months.

The petitioner being the husband of the complainant was granted provisional anticipatory bail for six months in a complaint case, wherein process was directed to be issued after cognizance being taken for the offences punishable under Section 498A of the IPC and Sections 3 and 4 of the Dowry Prohibition Act, on the admission of the petitioner of his



marriage with the complainant and statement being made in paragraph 8 of the main petition that the petitioner is ready to keep the complainant as wife with full dignity and honour.

Learned court below was supposed to issue notice to the complainant. 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 complainant fails to appear before the learned court below or (iii) if the complainant gets reluctant to reconcile the issue.

Subsequently, the petitioner filed Cr. Misc. No. 55255 of 2016 for modification of order dated 20.6.2016 passed in Cr. Misc. No. 24957 of 2016 to the extent of extending the period of provisional anticipatory bail. The said application was filed on the ground that the complainant failed to appear before the learned court below as she was suffering from jaundice and the same was disposed of vide order as contained in Annexure 2, whereby the period of provisional bail of the petitioner was extended till 30th June, 2017. Thereafter, the present modification application has been registered on 11.5.2018.

It is submitted by learned counsel for the petitioner that the provisional bail of the petitioner has not been confirmed due to apathetic attitude of the complainant, hence,



under one of the three conditions, now the provisional bail was supposed to be confirmed by the learned court below, but the matter is unnecessarily being adjourned.

Be that as it may, this Court is not inclined to interfere in the matter on two grounds; firstly, that the provisional bail got lapsed on 30.6.2017, whereas the present application has been registered on 11.5.2018, almost after eleven months of expiry of the period of provisional anticipatory bail and, secondly, though the order dated 20.6.2016 passed in Cr. Misc. No. 24957 of 2016 got modified vide order dated 18.1.2017 passed in 55255 of 2016, but no modification of the second order has been sought for.

However, keeping in view the fact that the petitioner is willing to reconcile the issue whereas it is the complainant who is not responding to the offer of the petitioner and the petitioner has remained on provisional anticipatory bail for a considerable period, learned court below is expected to consider the prayer of the petitioner for bail in case the petitioner surrenders within six weeks in connection with Complaint Case No. C-21 of 2015 (Trial No. 6110 of 2015) pending in the court of the learned SDJM, Sadar, Motihari.

With the aforementioned observation/direction, this



application is disposed of

(Dinesh Kumar Singh, J)

anil/-

U			
---	--	--	--

