

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.60722 of 2017

Arising Out of PS. Case No.-59 Year-2014 Thana- MAHILA P.S. District- Madhubani

Pano Devi @ Pano Kumari, W/o Ganesh Paswan, D/o Ganga Ram Paswan, Resident of Village- Ambedkar Nagar Subash Chowk Khutauna, P.S.- Khutauna, District- Madhubani. at present residing at Village- Hatwaria, P.S.- Harlakhi, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Ganesh Paswan, S/o Shiv Narayan Paswan, Resident of Ambedkar Nagar Subhash Chowk Khutauna, P.S.- Khutauna, District- Madhubani.

... .. Opposite Party/s

with

Criminal Miscellaneous No. 62353 of 2017

In

Criminal Miscellaneous No.39253 of 2015

Arising Out of PS. Case No.- Year-1111 Thana- District- Madhubani

Ganesh Paswan Son of late Shiv Narayan Paswan resident of village - Ambedkar Nagar, Subhash Chowk, Khutouna, P.S. Khutauna, District - Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Pano Devi W/o Ganesh Paswan, D/o Ganga Ram Paswan Village - Patwaria, P.S. Harlakhi, District - Madhubani.

... .. Opposite Party/s

Appearance :

(In Criminal Miscellaneous No. 60722 of 2017)

For the Petitioner/s : Mr. Ratanakar Jha

For the Opposite Party/s : Mr. Sri Yogendra Kumar

(In Criminal Miscellaneous No. 62353 of 2017)

For the Petitioner/s : Mr. Dileep Kumar Singh

For the Opposite Party/s : Mr. Sri Ganesh Prasad Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 26-09-2018

Heard learned counsels for the parties.

Cr. Misc. No. 60722 of 2017 has been filed for



cancellation of provisional anticipatory bail for a period of one year granted to O.P. No. 2, Ganesh Paswan vide order dated 24.8.2015 in Cr. Misc. No. 39253 of 2015, whereas Cr. Misc. No. 62353 of 2017 has been filed for modification of the order dated 24.8.2015 in Cr. Misc. No. 39253 of 2015 to the extent of confirmation of the provisional bail granted to petitioner Ganesh Paswan.

The factual matrix of the case is that Ganesh Paswan, being the husband of Pano Devi, preferred Cr. Misc. No. 39253 of 2015 for grant of anticipatory bail in Madhubani Mahila P.S. Case No. 59 of 2014 pending in the Court of learned SDJM, Madhubani registered for the offences punishable under Sections 341,323,379,498A,307 and 328/34 of the IPC and Sections 3 and 4 of Dowry Prohibition Act. On the submission made by learned counsel for Ganesh Paswan that he is ready to keep Pano Devi as wife along with female child with full dignity and honour and statement to that effect being made in paragraph 11 of the petition, he was granted provisional anticipatory bail for one year vide order dated 24.8.2015 in Cr. Misc. No. 39253 of 2015. The learned Court below was at liberty to issue notice to Pano Devi and on her appearance Ganesh Paswan was supposed to take her to her matrimonial



house to keep her as wife with full dignity and honour. The provisional bail was to be confirmed in three eventualities- (i) if the matrimonial harmony is substantially restored or (ii) if the informant failed to appear or (iii) if the informant is reluctant to reconcile the issue.

In Cr. Misc. No. 60722 of 2017, the ground for cancellation of bail is that the husband Ganesh Paswan has failed to comply the conditions of provisional bail, whereas Cr. Misc. No. 62353 of 2017 has been filed for modification of the order to the extent of confirming the provisional bail.

However, it is jointly submitted that both sides are still ready to reconcile the issue. This has not been disputed by learned counsels for either side that bail bond of Ganesh Paswan has not been confirmed.

Be that as it may, the provisional bail of Ganesh Paswan got lapsed on 23.8.2016, while Cr. Misc. No.60722 of 2017, which has been filed for cancellation of bail, has been registered on 12.12.2017. This application (Cr. Misc. No. 60722 of 2017) is not maintainable since Ganesh Paswan is no longer on provisional bail in pursuance to the order of this Court. Accordingly, this application is dismissed as not maintainable.

Since modification application (Cr. Misc. No. 62353



of 2017) was registered on 19.12.2017 when the provisional bail granted to Ganesh Paswan got lapsed on 23.8.2016, this Court is not inclined to interfere. This application is accordingly dismissed.

However, in view of the present stand of the parties that they are still ready to reconcile the issue, it is expected from the learned court below to get the issue mediated in view of the ratio laid down by the Apex Court in the case of K. Srinivas Rao Vs. D.A. Deepa (2013) 5 SCC 226, wherein it has been directed that the Criminal Courts dealing with the complaint under Section 498A should at any stage refer the parties to Mediation Centre if they feel that there writ elements of settlement and both the parties are willing. During mediation, the learned court below will be at liberty to grant provisional regular bail to the husband if he appears.

(Dinesh Kumar Singh, J)

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