

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25238 of 2018

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Subhash Kumar, Son of Sri Ramanand Prasad, Resident of Village- Sinduri,
P.S.- Wazirganj, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Pinki Kumari, Wife of Sri Subhash Kumar, D/o Sri Yogendra Prasad,
Resident of Village- Gharahim, P.O. & P.S.- Giriyak, District- Nalanda.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Sinha

For the Opposite Party/s : Mr. Sri Parmeshwar Mehta

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 02-05-2018

Heard Mr. Uma Shankar Prasad Singh,

learned counsel for the petitioner and Mr. J. N. Thakur, learned
counsel for the State.

The present application has been filed for
modification of order dated 18.10.2016 passed in Cr. Misc. No.
44430 of 2016 to the extent of extending the period of provisional
bail.

The factual matrix of the case would unveil
that the petitioner being the husband of the informant preferred Cr.
Misc. No. 44430 of 2016 in a case registered for the offences
punishable under Sections 498A, 494 of the Indian Penal Code
and Sections 3/4 of Dowry Prohibition Act. This Court on the



basis of submission made on behalf of the petitioner that he is ready to keep the informant as wife with full dignity and honour, concerning which a specific statement was in paragraph 7 of the application and further statement being made in paragraph 3 of the supplementary affidavit that the petitioner has not solemnized second marriage, the petitioner was granted provisional anticipatory bail for six months, vide order dated 18.10.2016 and the learned Court below was directed to issue notice to the informant and on her appearance the petitioner was supposed to take the informant 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 or (ii) if the informant gets reluctant to reconcile the issue or (iii) if the informant fails to appear before the learned Court below.

It is submitted by learned counsel for the petitioner that in pursuance to this Court's order the petitioner furnished bail bond and thereafter both were residing together, but under wrong advise an application has been filed on behalf of the father of the informant before the learned Court below and consequently the learned SDJM, Biharsharif vide order dated 02.06.2017 cancelled the bail bond of the petitioner and thereafter



the informant deserted the petitioner. However, the petitioner is still ready to keep the informant as wife with full dignity and honour.

Mr. J. N. Thakur, learned APP submits that the period of provisional anticipatory bail granted to the petitioner, got lapsed on 17.10.2017, whereas the present modification application got registered on 24.04.2018. Moreover, the petitioner preferred Cr. Misc. No. 41283 of 2017 for quashing of the order dated 02.06.2017 passed by learned SDJM, Biharsharif but the same was permitted to be withdrawn vide order dated 15.03.2018 by a co-ordinate Bench of this Court and hence, the modification application has become infructuous.

Considering the rival submissions of the parties, it appears that the present modification has been filed for extending the period of provisional bail after the period of provisional bail got lapsed. Moreover, the order dated 02.06.2017 passed by learned SDJM, Biharsharif in Giriyak P.S. Case No. 206 of 2016, whereby petitioner's bail bond was cancelled came to be challenged before this Court but the same was permitted to be withdrawn, hence, this Court is not inclined to interfere.

However, keeping in view the fact that the



petitioner is still ready to keep the informant with dignity and honour and ready to resolve the issue, it is expected from the learned Court below to make effort to mediate the issue in view of the ratio laid down in the case of K. Srinivas Rao Vs. D.A. Deepa reported in 2013 (5) SCC, 226 and for conducting such mediation, let no coercive steps be taken against the petitioner for next six weeks in connection with Giriyak P.S. Case No. 206 of 2016, pending in the Court of learned S.D.J.M., Nalanda at Bihar Sharif. The learned Court below will be at liberty to consider the prayer for bail of the petitioner on substantial restoration of matrimonial harmony.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J)

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