

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12172 of 2018

In
Criminal Miscellaneous No.31572 of 2017

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

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Sudhir Ram @ Sudhir Kumar S/o Late Basudeo Ram, R/o Village- Parwa
Navtol, Shantnagar, P.O.- Parwa, P.S.- Murliganj, District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anant Kumar-1

For the Opposite Party/s : Mr. SRI KALYAN SHANKAR

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 07-03-2018 Heard learned counsels for the parties.

The present application has been filed for modification of order dated 29.11.2017 passed in Cr. Misc. No. 31572 of 2017.

The factual matrix of the case would unveil that the petitioner being the husband of the complainant preferred Cr. Misc. No. 50741 of 2015 with a prayer for anticipatory bail 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 Section 4 of Dowry Prohibition Act. This Court, vide order dated 3.11.2015 issued notice to O.P. No. 2 but inspite of valid service of notice, the O.P. No. 2/the complainant failed to appear. Thereafter, the matter was



adjourned to 3.5.2016 but the O.P. No. 2 again failed to appear. Ultimately, the petitioner was granted provisional anticipatory bail for one year vide order dated 28.7.2016. The provisional anticipatory 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 is reluctant to reconcile the issue.

Thereafter, the petitioner preferred Cr. Misc. No. 31572 of 2017 for modification of the order dated 28.7.2016 passed in Cr. Misc. No. 50741 of 2015, whereby the petitioner was granted provisional anticipatory bail, to the extent of confirmation of the provisional anticipatory bail. In the said modification application, this Court again issued notice to the complainant vide order dated 6.9.2017. The office note dated 28.11.2018 reflects that the notice under ordinary process was received by the O.P. No. 2 personally, however, so far as registered cover notice was concerned, there was service report, but inspite of that, none appeared. Though this Court declined to confirm the provisional bail, however, keeping in view the nature of accusation and the fact that the Complaint Case No. 70 of 2012 was filed by the petitioner at earlier point of time



and that the O.P. No. 2 chose not to appear before this Court, this Court observed that it is a case for consideration of prayer for regular bail of the petitioner in case he surrenders within six weeks. It was further observed that bail application of the petitioner should be disposed of preferably on the same day.

It is submitted by learned counsel for the petitioner that the present application has been filed for modification of the order dated 29.11.2017 passed in Cr. Misc. No. 31572 of 2017 since the petitioner is making payment of Rs.10000/- (Rs.5000/- as maintenance and Rs.5000/- as arrears of maintenance amount) per month in pursuance to an order of this Court and that the petitioner is a Government servant. It is further submitted that the petitioner apprehends that the learned court below may pass adverse order.

In view of the fact that earlier this Court declined to interfere, this Court is not inclined to revise its earlier order. However, keeping in view the fact that it will be a futile exercise to put the petitioner behind the bars since the petitioner is making payment of maintenance amount to the complainant, the complainant on the earlier occasion also chose not to appear and the petitioner is a government servant, it is expected from the learned court below to dispose of the



application of the petitioner with a prayer for regular bail in connection with Complaint Case No. 855 of 2013 pending in the court of the learned SDJM, Madhepura, preferably on the same day if the petitioner surrenders within a period of six weeks from the date of receipt/production of a copy of this order.

With the aforementioned observation/direction, this application is disposed of.

(Dinesh Kumar Singh, J)

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