

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23274 of 2017

In
Criminal Miscellaneous No.6872 of 2016

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

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Abhishek Kumar @ Bittu, son of Sri Narendra Kumar Singh @ Nagendra Kumar Singh, resident of Village- Pauni Hassanpur, Police Station and District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Dimple Kumari, Wife of Abhishek Kumar @ Bittu, D/o Ashok Kumar Singh, resident of Village- Pauni Hassanpur, Police Station and District- Vaishali. At present resident of Mohalla- S.D.O. More, New Colony, Hajipur, Police Station- Town Hajipur, District- Vaishali.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Manish Kumar No-2
For the Opposite Party/s	:	Mr. Smt. Renuka Ratnakar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

15 22-11-2018 Heard Mr. Pushpendra Kumar, learned counsel

for the petitioner, Abhishek Kumar @ Bittu and Mr.

Rakesh Kumar, learned counsel for the informant, O.P.

No. 2, Dimple Kumari.

The present application has been filed for
modification of the order dated 06.09.2016 passed in Cr.
Misc. No. 6872 of 2016, whereby, the petitioner was
granted provisional anticipatory bail for seven months, to
the extent of confirmation of the provisional anticipatory
bail.

I.A. No. 2008 of 2017



The above mentioned I.A. has been filed for amendment of the prayer to the extent of quashing the order dated 21.04.2017 passed by the learned CJM, Vaishali at Hajipur in Vaishali Sadar P.S. Case No. 351 of 2015, whereby, the bail bonds of the petitioner has been cancelled.

Learned counsel for the opposite party no.2 as well as State have no objection with regard to the amendment.

Hence I.A. No. 2008 of 2017 is allowed to the extent of amendment of prayer.

The factual matrix of the case is that the petitioner being the husband of the informant, apprehending arrest in connection with Vaishali Sadar P.S. Case No. 351 of 2015 registered for the offences punishable under Sections 342, 323, 307 and 498A/34 of the IPC and Sections 3 and 4 of Dowry Prohibition Act, preferred Cr. Misc. No. 6872 of 2016 with a prayer for anticipatory bail. The prosecution case as per the written report of O.P. No. 2, Dimple Kumari dated 22.11.2015 submitted to the SHO, Vaishali Police Station is to the effect that marriage between the petitioner and O.P. No. 2



was performed on 15.06.2014. The O.P. No. 2 was kept with dignity for two months in the in-laws house and thereafter further dowry demand of Rupees Ten Lakh was made and on non-fulfillment of the same, O.P. No. 2 was assaulted and was deprived of the basic needs of life, like food, whereupon the father of O.P. No. 2 came and tried to reconcile the issue. In order to buy peace the father of the O.P. No. 2 gave a gift worth of Rupees Two Lakh . Thereafter O.P. No. 2 went to Tripura as the petitioner is employed in Tripura Police, but after sometime O.P. No. 2 was again subjected to torture for non-fulfillment of further dowry demand. On 19.11.2015 the petitioner brought O.P. No. 2 from Tripura to his native place and made an attempt on her life of by badly assaulting her as a result she got unconscious. Consequently, after snatching her belongings the O.P. No. 2 was left on road. Thereafter the parents of the informant were informed and ultimately the present case was registered.

The police, after investigation, submitted final form (Charge-sheet) against the petitioner. Thereafter the petitioner preferred Cr. Misc. No. 6872 of 2016 with a prayer for anticipatory bail. Initially matter



was referred vide order dated 17.03.2016 to Mediation Centre of Bihar State Legal Services Authority on the joint prayer of the parties, but the report of the Mediator dated 18.04.2016 suggests that the issue could not be resolved through the process of mediation. However, it was submitted by the learned counsel for the petitioner that the petitioner admits his marriage with the informant though is aggrieved with the conduct of O.P. No. 2, but he is ready to keep her at his place of employment. Statement to that effect was made in paragraph 7 of the bail petition which reads as follows:-

“That still the petitioner is ready to keep her wife with full honour and dignity.”

Learned counsel for the informant on instructions accepted the offer of the petitioner. Consequently both sides agreed to appear before the learned Court below on 15.11.2016 when the petitioner was supposed to take the informant for keeping her as wife with full dignity and honour. On the above mentioned stand of the parties the petitioner was granted provisional anticipatory bail for seven months and the learned Court below provisional bail was given liberty to



confirm the provisional bail in three eventualities:- (i) On substantial restoration of the matrimonial harmony, (ii) or if the informant gets reluctant to reconcile the issue and (iii) or if the informant fails to appear before the learned Court below.

The present modification application has been registered on 10.05.2017 with a prayer for modification of order dated 06.09.2016 passed in Cr. Misc. No. 6872 of 2016, whereby the provisional anticipatory bail was granted to the petitioner for seven months, to the extent of confirmation of provisional bail. Thereafter since the petitioner failed to appear before the learned Court below, the bail bond of the petitioner was cancelled vide order dated 21.04.2017 which is under challenge vide I.A. No. 2008 of 2017. This Court vide order dated 17.01.2018 granted interim protection to the petitioner as both sides expressed willingness to resolve the issue.

Serious attempt was made for resolving the issue. The petitioner and O.P. No. 2 are present in Court who are being identified by their respective counsels. It is jointly submitted that both sides have resolved the issue



and are residing together. This Court also interacted with the petitioner and O.P. No. 2 when they admit the factum of resolution of the issue. Hence learned counsel for the informant O.P. No. 2 is not opposing the prayer of the petitioner for confirmation of provisional bail. The petitioner undertakes that he will keep the informant with full dignity and honour in future.

Both sides agree to appear before the learned Court below on 26th November, 2018 and file a joint affidavit that they have resolved the issue.

Considering the present stand of the parties, since the petitioner is in Tripura Police and issue has been resolved between the parties, in the interest of justice, to save the matrimonial relation between the parties, though this Court is not inclined to quash order dated 21.04.2017 passed by the learned CJM, Vaishali at Hajipur, however, the order dated 06.09.2016 passed in Cr. Misc. No. 6872 of 2016 is modified to the extent that the period of provisional anticipatory bail of the petitioner is extended up to 15th December, 2018. On appearance of both sides and filing joint affidavit to the effect that the issue has been reconciled. The learned Court below will confirm



the provisional bail on furnishing fresh bail bonds of Rupees Ten Thousand with two sureties of the like amount each to its satisfaction in connection with Vaishali Sadar P.S. Case No. 351 of 2015.

However, since the O.P. No. 2 is still apprehensive due to past conduct of the petitioner, hence, she will be at liberty to file application of cancellation of bail if the petitioner fails to comply the undertaking given before this Court.

Accordingly, this modification application stands disposed of.

(Dinesh Kumar Singh, J)

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