

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49884 of 2018

In
Criminal Miscellaneous No.23824 of 2013

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

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Md. Atabul Rahman S/o Late Abu Sayeed, R/o Vill.- Dhusmar, P.O.- Sotha,
P.S.- Jalalgarh, Distt.- Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Bibi Hazra, W/o Atabul Rahman, D/o Md. Zubair, R/o Kankhudiya, P.S.-
Jalalgarh, Distt.- Purnia.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjai Kumar Singh
For the Opposite Party/s : Mr. Sri Sanjay Kumar Sharma

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

4 10-10-2018 Heard.

The present application has been filed for modification of the order dated 09.09.2013, passed in Criminal Miscellaneous No. 23824 of 2013 to the extent of confirming the provisional bail of the petitioner.

The petitioner, being the husband of the informant, was granted provisional anticipatory bail for one year in a case registered for the offences punishable under Sections 323, 494,



498A, 504 and 120B of the I.P.C. and Sections 3/4 of the Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of dowry demand and performing second marriage.

It was submitted by learned counsel for the petitioner that the informant was found in objectionable condition with some other male when the informant was divorced as per Muslim rituals and thereafter the petitioner performed second marriage. However, the factum of divorce was denied by learned counsel for the informant. Hence, considering the same, the petitioner was granted provisional anticipatory bail for one year when the Court below was directed to conduct an enquiry with regard to the factum of divorce and if learned Court below comes to a conclusion that divorce was validly given then provisional bail granted to the petitioner was supposed to be confirmed and if learned Court below comes to a conclusion otherwise, then the petitioner was supposed to surrender and pray for regular bail.

It appears that the learned SDJM, Purnea, vide order dated 23.07.2015, passed in Misc. Case No.01 of 2014 came to a finding after conducting an enquiry that the petitioner never gave divorce to the informant. However, the said order was



challenged by the petitioner by filing Criminal Revision No. 727 of 2015 which was disposed of vide order dated 20.06.2018. However, in view of the fact that the issue has been reconciled between the petitioner and the informant and both are residing together under the same roof as husband and wife, the petitioner was given liberty, if so advised, to prefer modification application to modify the order dated 09.09.2013, whereby he was granted provisional anticipatory bail. Hence, the present application.

Learned counsel for the petitioner submits that the petitioner and the informant are residing together and the issue has been reconciled between the parties. The bail bond of the petitioner has not been cancelled till date.

Learned counsel for the informant submits that the issue has been reconciled and he is not opposing the prayer for bail of the petitioner.

In the circumstances, the order dated 09.09.2013, passed in Criminal Miscellaneous No.23824 of 2013 is modified to the extent that let the provisional bail granted to the petitioner vide the order aforementioned be confirmed on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned SDJM, Purnea, in



connection with Mahila P.S. Case No.39 of 2012, subject to the
conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

Ashwini/-

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