

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45139 of 2018

In
Criminal Miscellaneous No.23711 of 2016

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

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Shree Yadav S/o Bhushan Yadav, D/o Late Govind Yadav, R/o Vill.-
Sorkhonda, P.S.- Halsi, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Shila Devi W/o Shree Yadav, D/o Late Govind Yadav, R/o Vill.- Sorkhondo ,
P.S.- Halsi, District- Lakhisarai, at present R/o Vill.- Masaura, P.S.- Ariyari,
O.P. Kasar), District- Sheikhpura.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No-2
For the Opposite Party/s : Mr. J.N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 19-09-2018 Heard learned counsels for the parties

The present application has been filed for modification of the order dated 30.05.2016 passed in Cr. Misc. No.23711 of 2016 to the extent of directing the learned Court below to confirm the provisional anticipatory bail of the petitioner.

The factual matrix of the case is that the petitioner being the husband of the complainant preferred Cr. Misc. No. 23711 of 2016 with a prayer for anticipatory bail in a case registered for the offences punishable under Sections 323,380,504 and 498A/34 of the IPC and Sections 3 and 4 of Dowry Prohibition Act.

The basic accusation as per F.I.R. is of torture for non-



fulfillment of dowry demands.

On the submission of learned counsel for the petitioner and the statement made in paragraph 11 of the petition that the petitioner is ready to keep the complainant as wife with full dignity and honour, this Court vide order dated 30.05.2016 passed in Cr. Misc. No.23711 of 2016 granted provisional anticipatory bail for six months. 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 complainant fails to appear before the learned court below or (iii) if the complainant gets reluctant to reconcile the issue.

It is submitted by learned counsel for the petitioner that the petitioner made all efforts to get the issue reconciled but due to apathetic attitude of the complainant the same could not be done. However, on the application of the complainant dated 30.01.2017 the learned SDJM, Sheikhpura vide order dated 28.02.2017 passed in Case No. 453C of 2013 canceled the bail bonds of the petitioner. It is further submitted that the petitioner is still ready to keep the complainant as wife with full dignity and honour, hence, the prayer of the petitioner for confirmation of provisional bail be considered.

Considering the fact that the petitioner's provisional



anticipatory bail got lapsed on 29.11.2016 when the modification application has been registered on 24.07.2018 and the bail bond has been canceled by the learned Court below but the same has not been challenged, this Court is not inclined to modify the order dated 30.05.2016 passed in Cr. Misc. No. 23711 of 2016.

However, keeping in view the fact that the petitioner remained on provisional bail for a considerable period, no useful purpose will be served now to put him behind the bars. In the circumstances, if the petitioner appears before the learned Court below within a period of four weeks, the learned Court below will be at liberty to release him on provisional bail for a period he thinks fit and make an effort to mediate the issue between the parties in view of the ratio laid down in the case of K. Srinivas Rao Vs. D.A. Deepa reported in (2013) 5 Supreme Court Cases 226.

This modification application is accordingly disposed of.

(Dinesh Kumar Singh, J)

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