

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4550 of 2019

In
CRIMINAL MISCELLANEOUS No.28849 of 2014
Arising Out of PS. Case No.- Year-0 Thana- District-

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Md. Obaid Alam, Son of Md. Zamiruz Zaman Khan @ Md. Zamirul Zaman,
Resident of Village - Pirnagar, P.S. - Gwalpara, District – Madhepura.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sugina Khatoon, D/o Md. Alam, Resident of Village- Pir Nagar, P.S.-
Gwalpara, District- Madhepura.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Krishna Prasad Singh, Sr. Advocate Mr. Bhaskar Shankar, Advocate
For the State	:	Mr. Tarun Prasad Mandal, APP
For the Opposite Party No.2:	:	Mr. Pawan Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 11-09-2019 Heard learned counsel for the petitioner, learned
counsel for the complainant and learned APP for the State.

The present application has been preferred by the
petitioner for modification of order dated 13.02.2015 passed in
Cr. Misc. No. 28849 of 2014 to the extent of confirming the
provisional anticipatory bail.

The factual matrix of the case is that the petitioner,
being the husband of the complainant-opposite party no. 2,
preferred Cr. Misc. No. 28849 of 2014 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 Indian Penal



Code and Section 4 of Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of dowry demand.

The marriage between the petitioner and the complainant in August, 2012 is admitted. However, subsequently, the petitioner raised doubt being the biological father of the child born on 06.04.2013. He claims to have performed marriage with one Gulnaj Praveen. Petitioner is an Army Personnel.

Considering the above stand of the petitioner, petitioner was granted provisional anticipatory bail vide order dated 13.02.2015 passed in Cr. Misc. No. 28849 of 2014. The provisional anticipatory bail was to be confirmed by the learned Court below on non-matching of DNA of the child with the petitioner for which both sides agreed, but if the DNA of the child will match with the petitioner then the petitioner will surrender and pray for regular bail.

It is submitted by learned Senior counsel for the petitioner that the DNA test of the child matched with the petitioner. In the circumstances, petitioner is ready to keep the complainant along with the child at his place of posting with full dignity and honour but at present he will not take them at his new place of posting but after some time, he is ready to keep them and also ready to make payment of Rs.8,000/- per month



to the complainant from October, 2019 by depositing the same in the bank account of the complainant-opposite party no. 2 by second week of every succeeding month.

Learned counsel for the complainant submits that the complainant is apprehensive due to the past conduct of the petitioner but is ready to resume the conjugal life and to accept the offer of the petitioner and undertakes to submit her bank account number on affidavit before the learned Court below within a period of three weeks.

It is submitted by learned Senior counsel for the petitioner that the bail bond of the petitioner has not been cancelled. This has not been controverted by learned counsel for the complainant-opposite party no. 2.

Considering the present stand of the parties and the fact that the petitioner is ready to make monthly payment to the complainant, the order dated 13.02.2015 passed in Cr. Misc. No. 28849 of 2014 is modified to the extent that the period of provisional anticipatory bail is extended till 30th of September, 2019 in connection with Complaint Case No. 874C of 2013, pending in the Court of learned Sub-divisional Judicial Magistrate, Madhepura.

The provisional anticipatory bail will be confirmed by



the learned Court below on filing of affidavit by the petitioner to the effect that he is ready to keep the complainant and the child with dignity and honour and also ready to make monthly payment of aforesaid undertaken amount.

The above mentioned payment will be subject to any order being passed in matrimonial, maintenance or collateral proceedings.

Three consecutive defaults in making payment will give liberty to the complainant to file application for cancellation of bail of the petitioner.

The present order, in no way, will preclude the parties to resolve the issue otherwise.

Accordingly, the present modification application is disposed of.

(Dinesh Kumar Singh, J)

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