

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.14 of 2019

In

CRIMINAL MISCELLANEOUS No.12494 of 2016

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

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Md. Iqbal, S/o - Md. Natho Resident of village- Bhirkhi Chowk, P.S. - sadar
Madhepura, District- Madhepura

... .. Petitioner/s

Versus

1. State Of Bihar
2. Rukshana Parween D/o - Md. Kosar Resident of village- Gewal Bigaha , P.S.
Rampur, District- Gaya.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nafisuzzoha, Adv.

For the Opposite Party/s : Mr. Gauri Shankar Gupta, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

5 21-08-2019 Heard learned counsel for the petitioner and opposite
party no.2.

The present application has been filed for
modification of the order dated 16.03.2016, passed in Criminal
Miscellaneous No.12494 of 2016 to the extent of confirming the
provisional bail granted to the petitioner, being husband of the
complainant-opposite party no.2, in connection with a complaint
case wherein process has been directed to be issued after
cognizance being taken for the offences punishable under
Section 498A of the Indian Penal Code and Section 4 of the
Dowry Prohibition Act.



The marriage between the petitioner and the complainant is admitted.

The basic accusation is of inflicting torture upon the complainant for non-fulfillment of further dowry demand.

The petitioner was granted provisional anticipatory bail for six months on the basis of submission and statement made in paragraph no.11 of the main petition to the effect that the petitioner is ready to keep the opposite party no.2 as wife with full dignity and honour. The learned Court below was directed to issue notice upon the complainant for her appearance and on appearance of the complainant, the petitioner was supposed to take her to keep her as wife with full dignity and honour. The provisional anticipatory bail of the petitioner was to be confirmed by the learned Court below in three eventualities i.e., (i) on substantial restoration of the matrimonial harmony with a period of six months, or (ii) if the complainant fails to appear before the learned Court below, or (iii) if the complainant gets reluctant to reconcile the issue. But the same was not confirmed, hence the present application.

It is submitted by learned counsel for the petitioner that the provisional anticipatory bail of the petitioner could not be confirmed since the complainant did not appear before the



learned Court below to reconcile the issue.

It appears that opposite party no.2 had appeared before the learned Court below and had preferred an application for canceling the bail bonds of the petitioner, which was rejected vide order dated 14.08.2018, passed by learned SDJM, Gaya in Complaint Case No.389 of 2014, as contained in Annexure-3 holding it to be maintainable on the ground that the period of provisional anticipatory bail of the petitioner has already been expired.

It is submitted by learned counsel for the complainant that in pursuance to the order whereby the petitioner was granted bail, the complainant went to her matrimonial house several times to resume the conjugal life, but all the times, the petitioner failed to keep her as wife with full dignity and honour.

Considering the rival submission of the parties, this Court is not inclined to modify the earlier order dated 16.03.2019, passed in Criminal Miscellaneous No.12494 of 2016 in view of the fact that provisional anticipatory bail got lapsed on 16.09.2016 whereas the present application was registered on 01.03.2019.

However, let the learned Court below consider the prayer for regular bail of the petitioner without any prejudice



being caused by this order, if the petitioner surrenders before the learned Court below within a period of six weeks in connection with Complaint Case No. 6 of 2014/389 of 2014, pending before the learned SDJM, Gaya.

Accordingly the modification application stands disposed of.

(Dinesh Kumar Singh, J)

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