

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54237 of 2019

In
CRIMINAL MISCELLANEOUS No.32374 of 2019

Arising Out of PS. Case No.-1043 Year-2013 Thana- KHAGARIA COMPALINT CASE
District- Khagaria

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Subodh Sah @SUBODH Prasad Sah Son of Babu Lal Sah Resident of Village
- Pirpanti, P.S.- Dist.- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pooja Kumari D/o Khalo Sah Resident of Village - Rahimpur, P.S.- Parbatta,
Dist.- Khagaria, Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Surendra Kumar Singh, Advocate
For the Opposite Party/s : Mr. Uma Shankar Pd. Singh, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 04-09-2019 The present application has been filed for

modification of order dated 10.07.2019 passed in Cr. Misc. No.

32374 of 2019 only to the extent that at page no. 2 in paragraph

2 and at page no. 3 in paragraph 2 of the order, it has wrongly

been recorded that the petitioner and the complainant are

residing together.

The factual matrix of the case is that the petitioner,

being husband of the complainant-opposite party no. 2 preferred

Cr. Misc. No. 35899 of 2015 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 Sections 3/4 of Dowry Prohibition Act. On submission made on behalf of the petitioner and statement made in paragraph 3 of the main petition that the petitioner is ready to keep the complainant as wife with full dignity and honour and the offer being accepted by the complainant, the petitioner was granted anticipatory bail provisionally for one year vide order dated 24.08.2015 in connection with Complaint Case No. 1043C of 2013, pending in the Court of learned SDJM, Khagaria. The learned Court below was supposed to confirm the provisional anticipatory bail in three eventualities- (i) on substantial restoration of the matrimonial harmony, (ii) or if the complainant gets reluctant to reconcile the issue or (iii) if the complainant fails to appear before the learned Court below. Subsequently, Cr. Misc. No. 32374 of 2019 was preferred by the petitioner for modification of order dated 24.08.2015 passed in Cr. Misc. No. 35899 of 2015 to the extent of confirmation of provisional anticipatory bail, this Court declined to revise the earlier order since the period of provisional anticipatory bail got lapsed on 23.08.2016, whereas the modification application was registered on 14.05.2019. However, it was observed that since the petitioner and complainant are residing together, the learned Court below



may consider the prayer for regular bail.

Now it is submitted by learned counsel for the petitioner that the petitioner is not residing with the complainant since long. It is presumed that the Court always records the factual submissions made by the counsels of the parties, accordingly, above mentioned fact of petitioner and opposite party no. 2 residing together was recorded in the order dated 10.07.2019. However, in view of the present stand of the learned counsel for the petitioner the order dated 10.07.2019 passed in Cr. Misc. No. 32374 of 2019 is modified to the effect that the petitioner and complainant are residing separately.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J)

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