

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50553 of 2019

In
CRIMINAL MISCELLANEOUS No.7779 of 2015

Arising Out of PS. Case No.-614 Year-2013 Thana- PURNIA COMPLAINT CASE District-
Purnia

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SANJAY KUMAR SINGH Son of Shiv Narain Prasad Singh Resident of
Village - Mathurapur, P.S.- Khagaria, Distt - Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Nitu Kumari Wife of Sanjay Kumar Singh, D/o Kalanand Prasad Singh
Resident of Mohalla - Gandhi Nagar, P.S.- K. Hat, Distt - Purnea.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	M/s N.K.Agarwal, Sr. Advocate Vijay Anand, Advocate
For the Opposite Party/s	:	Mr. Ganesh Prasad Singh, APP
For the Informant	:	Mr. Ashutosh Tripathi, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

5 16-08-2021 Heard learned counsel for the parties through video
conferencing.

The instant application has been filed praying for
modifying the order dated 26.2.2015 (Annexure-1) passed in
Cr.Misc. No. 7779 of 2015 by this Court.

The facts of the case in brief are that apprehending his
arrest in connection with Complaint Case no. 614/2013
registered under sections 498A, 34, 315, 511 and 379 of the
Indian Penal Code and section 4 of the Dowry Prohibition Act,
the petitioner who happens to be the husband of the complainant



filed an application for grant of anticipatory bail and the same was disposed of vide order dated 26.2.2015 passed in Cr.Misc. No. 7779/2015 in the following term:

“Considering the present stand of the petitioner, let the above named petitioner be released on provisional anticipatory bail for one year in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-divisional Judicial Magistrate, Purnea in connection with Complaint Case No. 614 of 2013, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Let the learned court below issue notice to the complainant on her appearance the petitioner will take the complainant to keep her as wife with full dignity and honour.

The provisional bail of the petitioner will be confirmed within one year by the learned court below in three eventualities:- (i) on



substantial restoration of the matrimonial harmony; (ii) or if the complainant gets reluctant to reconcile the issue; and (iii) or if the complainant fails to appear before the learned court.”

It is submitted by learned senior counsel appearing for the petitioner that pursuant to the order dated 26.2.2015, the petitioner appeared in the learned Court below and on furnishing bail bond was provisionally enlarged on bail for a period of one year. However, in the meantime the order dated 18.7.2014 taking cognizance in the case had been challenged by filing an application under section 482 of the Cr.P.C. in this Court. By order dated 23.4.2015 (Annexure-2) passed in Cr. Misc. No. 10021 of 2015, it was directed that the operation of the order dated 18.7.2014 taking cognizance shall remain stayed. It is submitted by learned senior counsel appearing for the petitioner, that proper pairvi was done in the learned Court below, however, there was no progress because of the order of stay. Ultimately by order dated 9.1.2018 the application praying for quashing of the order taking cognizance was withdrawn and soon thereafter, a petition was filed by the petitioner praying for confirmation of the bail granted by order dated 26.2.2015



(Annexure -1). It is submitted that by order dated 18.7.2019 the learned Court below held that the provisional bail granted to the petitioner, not having been extended, automatically stood cancelled and, thus, it rejected the prayer of the petitioner for confirmation of his provisional bail.

It is submitted by learned Senior Counsel appearing for the petitioner that from the date of grant of provisional bail to the petitioner on 18.3.2015, till the date that the petition for confirmation of provisional bail was filed on 9.2.2018, regular and proper pairvi was done on behalf of the petitioner. Even today the petitioner is ready to amicably settle the matter and to live with the O.P. no. 2 treating her with full respect and dignity. It is submitted that the petitioner would be filing a petition for withdrawal of the matrimonial divorce case filed by him praying for divorce. It is prayed that the application be allowed, the order dated 26.2.2015 be suitably modified and the petitioner would be ready to take the O.P. no. 2 and to live with her.

Although opposing the prayer for modification filed by the petitioner, at the same time it is submitted by learned counsel for the O.P. no. 2 that she has also all along been ready to live with the petitioner provided her security is assured and the petitioner treats her with respect and dignity. It is submitted



that the O.P. no. 2 shall appear in the learned court below on the date fixed and shall proceed with the petitioner to his place.

Having heard learned counsel for the parties and taking into consideration the submissions made, the instant modification application is allowed and the order dated 26.2.2015 is modified to the extent that the release of the petitioner on provisional anticipatory bail for one year is extended by a further period of four months from today. This Court is informed that the petitioner is already continuing on the provisional bail on furnishing bail bond on 18.3.2015. The petitioner will take immediate steps preferably within a period of two weeks from today of filing a petition in the matrimonial divorce case mentioning about the developments, his intention of living with the opposite party no.2 and making a prayer for withdrawal of the same.

The petitioner shall, thereafter, file a petition in the Court wherein the proceedings with respect to the instant complaint case are pending. The learned Court below shall fix a date for appearance of the petitioner and the opposite party no. 2, following the COVID 19 protocols and subject to the restrictions imposed. In their appearance before the learned Court below, the petitioner and the opposite party no.2 shall be



accompanied by only one another person. On the date fixed the learned Court below shall proceed to carry out the directions as contained in order dated 26.2.2015 passed in Cr. Misc. No. 7779 of 2015 (Sanjay Kumar Singh vs. State of Bihar and another), remaining part of the said order having remained unchanged.

This application stands allowed to the above extent.

(Partha Sarthy, J)

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