

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.821 of 2018

Arising Out of PS. Case No.-103 Year-2018 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

=====

Anil Kumar son of Dinesh Chandra Mahto, resident of Ward No. 04
Pachupur, P.S.- Rosera, District- Samastipur.

... .. Petitioner

Versus

1. State Of Bihar
2. Nutan Devi, W/o Anil Kumar, Ward No. 4 Muhalla- Pachupur, P.S. Rosera,
District- Samastipur. present address D/o Late Kapildev Singh, resident of
Village- Gara, P.S. Veerpur, District- Begusarai.

... .. Opposite Parties

=====

Appearance :

For the Petitioner	:	Mr.Ranjit Kumar, Advocate
For the State	:	Mr.Akhileshwar Dayal, APP
For the O.P. NO. 2	:	Mr. Sujit Kumar Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 21-07-2022 Heard learned counsel for the petitioner and learned
counsel for the O.P. No. 2 as also learned APP for the State.

The petitioner in the present case is aggrieved by and dissatisfied with the order dated 11.06.2018 passed by learned Sessions Judge, Samastipur in A.B.P. No. 1089 of 2018 by which while considering the prayer for anticipatory bail of the petitioner, the learned court below has granted the bail subject to the condition that the petitioner shall pay Rs.8,000/- per month to the informant either by bank account of the informant or through Nazarat of the civil court till disposal of the case failing which his privilege of anticipatory bail shall be deemed to be cancelled.



Learned counsel for the petitioner has assailed the condition imposed in the order dated 11.06.2018 to the extent that the petitioner shall pay Rs.8,000/- per month to the informant. His submission is that the learned Sessions Judge could not have incorporated any such condition which was not required to secure the presence of the petitioner.

In course of his submission, learned counsel submits that the petitioner has been providing the residential accommodation to his wife in his own house where she is living with two minor children. At one stage, learned counsel went on to state that the petitioner is also meeting the expenses of the minor children but as the Court proceeded to know the kind of expenses he is paying for the children, learned counsel has shown his unawareness on that score. He has also become tentative while proceeding to argue and support his contention saying that the petitioner is meeting the expenses of the minor children.

Learned counsel submits that in terms of the interim order of this Court dated 02.11.2018, the petitioner is presently paying Rs.4,000/- per month to the O.P. No. 2 and on his own volition, he would continue to pay Rs.4,000/- per month subject, however, to such order or orders. Thus, in other words, he



undertakes that the petitioner shall pay Rs.4,000/- per month to O.P. No. 2 on his own.

Mr. Sujit Kumar Singh, learned counsel for O.P. No. 2 submits that even though legally speaking a condition to pay the maintenance may not form part of a bail order but at the same time considering the plight of neglected women and children, the courts of law have developed the practice to call upon the husband to pay some amount to his wife and minor children while considering the prayer for bail. It is his submission that in the present day circumstances where the hearing of a maintenance case and other remedies are taking much time, the neglected women and children face a stage of starvation and in such circumstance, the court cannot remain oblivious of the situations of a victim. It is, thus, submitted that the law is developing and unless an equitable consideration is found to be against the statute, it must be given effect to.

This Court, having heard learned counsel for the parties, is of the considered opinion that being a Constitutional Court, the Court sitting in its revisional jurisdiction would be required to consider as to whether on the anvil of law the impugned order imposing a condition to pay certain amount of maintenance for grant of bail would be wholly illegal to the



extent it imposes that condition.

To this Court, it appears that imposition of such conditions may be required in an appropriate case but that would be required to be decided in the facts of a particular case. It cannot be said to be absolutely illegal though a regular court considering the prayer for bail may instead of imposing a condition try to impress upon the petitioner who is seeking bail in such cases to come out with a reasonable stand to pay certain amount to his wife who is on the verge of starvation for the purpose of giving her some reprieve at this stage. If the petitioner takes a reasonable stand on his own that may, in the opinion of this Court, be a reason to persuade the court to consider the bona fides of the petitioner.

So far as the present case is concerned, learned counsel for the petitioner has at this stage on his own offered to pay a sum of Rs.4,000/- per month to his wife and has also given an impression to this Court that the petitioner is taking care of the expenses of his minor children and his wife and children are living in the same house, therefore, this Court is not going into much discussion on this aspect of the matter.

Learned counsel for the O.P. No. 2 submits that for the present he would accept Rs.4,000/- per month but the



petitioner must abide by what has been given to understand to this Court with respect to the residence of the O.P. No. 2 and her minor children and the other expenses of the minor children.

This Court expects that what has been informed to this Court are correct and the petitioner would continue to pay Rs.4,000/- per month to his wife besides the residence and he would continue to take care of his minor children as has been informed to this Court.

In the circumstances, the condition imposed in the impugned order is modified and it should be read as if the petitioner has on his own volition agreed to pay a sum of Rs.4,000/- per month to the informant. Rest of the impugned order needs no interference.

This application stands disposed of accordingly.

If the parties are willing to settle the matter outside the court, they can jointly apply for sending the records of the case to the mediation centre attached to the court below.

(Rajeev Ranjan Prasad, J)

SUSHMA2/-

U		T	
---	--	---	--

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

