

27.02.2024

Serial no. 41

Dd

CRM (A) 4001 of 2022

With

CRAN 1 of 2023

(An application for Relaxation of condition of Anticipatory bail)

In the matter of : Arnab Sen

... ...Petitioner

Mr. Arindam Jana,
Ms. Jhuma Sen,
Mr. Dinesh Vishwakarma, Advocates
... ...For the Petitioner

Mr. Uday Sankar Chattopadhyay,
Ms. Trisha Rakshit,
Ms. Rajashree Tah, Advocates
... ... For the op no. 2

Ms. Sreyashee Biswas, Advocates
... ...For the State

Petitioner prays for modification/relaxation of the condition of grant of interim maintenance to the private respondent.

Learned advocate appearing for the petitioner submits that subsequent to the order dated June 30, 2022 passed in CRM (A) 2839 of 2022, the private respondent lost the proceeding under the Domestic Violence Act. Appeal against such order is yet to be admitted. Consequently, the requirement to pay maintenance should be waived/relaxed.

Learned advocate appearing for the private respondent submits that the payment of maintenance was not a condition of the grant of the order of maintenance. He submits that the petitioner agreed to pay the maintenance. Such agreement was recorded in the order dated June 30, 2022.

State is represented.

We passed orders dated June 30, 2022 and August 23, 2022 in the application for anticipatory bail of the petitioner being CRM (A) 2839 of 2022.

On June 30, 2022, learned advocate appearing for the petitioner offered to pay maintenance. Relevant portions of the offer and the order directing payment of maintenance to the private respondent are as follows :-

"Learned advocate appearing for the petitioner submits on instructions that the petitioner will return all Streedhan articles of the de facto complainant within 7 days from date. The petitioner is ready and willing to pay interim maintenance at the rate of Rs.25,000/- per month to the de facto complainant subject to the amount of maintenance being decided by the appropriate forum having jurisdiction over such subject matter. He submits that the petitioner is a Professor. The child born out of wedlock is in the custody of the petitioner pursuant to order passed by the appropriate forum. The petitioner is required to look after his widow mother also.

.....

The petitioner will pay an amount of Rs.25,000/- per month as interim maintenance to the de facto complainant wholly without prejudice to the rights and contentions of the petitioner and the de facto complainant with regard to the quantum of maintenance to be paid. The appropriate forum will be at liberty to decide upon the quantum of maintenance to be paid by the petitioner to the de facto complainant without being influenced by any of the observations made herein or the quantum filed by this order.

The payment of maintenance money will commence on and from the month of July, 2022 and will be payable within 15th of each month. The first instalment, therefore, is to be paid by July 15, 2022."

Subsequent thereto, we grant anticipatory bail to the petitioner on August 23, 2022.

Subsequent to the order dated August 23, 2022, proceedings under the Domestic Violence Act initiated at the behest of the private respondent was dismissed on June 12, 2023. Appeal therefrom is yet to be admitted.

Our order dated June 30, 2022 recorded the offer of the petitioner before us to pay maintenance subject to the amount of maintenance being decided by the appropriate forum.

Domestic Violence Forum exercising jurisdiction under the Domestic Violence Act decided on the quantum of maintenance to be payable and found that no maintenance was required to be paid. Such decision is yet to be upset by a higher authority.

In such circumstances, we clarify that, the requirement on the petitioner to pay maintenance was on the offer of the petitioner to pay such maintenance subject to a decision being taken by the appropriate forum with regard thereto. Since as on date, the appropriate forum decided that no maintenance is payable, petitioner may comply with such direction.

It is clarified that the observations made herein are limited to the orders passed by us and will not affect any of the private parties before any forum.

CRAN 1 of 2023 is **disposed of** accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)