

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29842 of 2023

In
CRIMINAL MISCELLANEOUS No.13404 of 2022

Arising Out of PS. Case No.-34 Year-2021 Thana- MAHILA P.S. District- Vaishali

Kuldeep Kumar Singh @ Mithu Son Of Devendra Kumar Singh @ Bhagatji
R/O Village- Chandpur, P.S.- Bidupur, District- Vaishali

... .. Petitioner

Versus

1. The State Of Bihar
2. Khusboo Kumari D/O Tripurari Sharan Singh R/O Village- Totahan, P.S.-
Lalganj, District- Vaishali

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Satish Narain Singh, Advocate
For the State	:	Mr. Rajesh Kumar, A.P.P.
For opposite party no.2	:	Mr. Raj Dular Sah, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

9 06-09-2024 Heard learned counsel for the petitioner, the State and the opposite party no.2.

2. Petitioner seeks modification of order dated 27.7.2022, passed in Cr.Mis.No. 13404 of 2022 by which the petitioner has been directed to pay interim maintenance of Rs.18,000/- per month to opposite party no.2, subject to any order passed in matrimonial or maintenance proceedings.

3. Learned counsel for the petitioner submits that during course of hearing of anticipatory bail application, the petitioner counsel without consulting the petitioner assured this Hon'ble Court that petitioner is ready to make payment of Rs. 18,000/- maintenance to the opposite party no.2. as interim maintenance to opposite party no.2. He submits that petitioner is getting salary Rs. 55,000/- per month as per salary slip of January 2023 after deducting EMI of different heads out of which he is paying rent of Rs. 3500/- per month, Interest 5400/-



per month, mothers medical expenses per month Rs. 5000/-, food expenditure self Rs. 15000/- per month, other expenses Rs. 17000/- per month, annual L.I.C Rs. 25,000/-, L.I.C Rs. 6348 annual, total expenditure from monthly salary from petitioner is about 45,000/-. It is submitted here that petitioner is facing very acute financial crunch to pay the interim maintenance as Rs. 18,000/-per month to the opposite Party no.2. Reference is made to the decision of the Hon'ble Supreme Court in Cri. Appeal No. 1923 of 2022 (SLP (Cr) No. 10556 of 2022 in view of decision in **Manish Bhasin & others Vs. State (Govt. of NCT Delhi & others 2009 4 SCC 45** as followed in **SLP (Cri) No. 8766/2022 (Abhishek Naraiyan Versus The State of Bihar & others)**, in which order of interim maintenance was set aside holding that conditions to be imposed under section 438 of the Code cannot be harsh, onerous or excessive so as to frustrate the very object of grant of anticipatory bail under section 438 of the Code.

4. Learned counsel for the State and opposite party no.2 oppose the submission of the petitioner. Learned counsel for opposite party no.2 submits that the order for payment of maintenance amount is interim in nature and not final and the same is subject to consideration of the Family Court and if the petitioner has any grievance, he should move the Family Court for final settlement. Opposite party no.2 has also filed Maintenance case No. 132 of 2021 before the Principal Judge, Family Court, Vaishali at Hajipur.

5. Order dated 27.7.2022 directing the petitioner to pay Rs.18,000/- per month is an interim order, until a final decision is made regarding final settlement. Interim maintenance is intended to provide financial support to a spouse



or partner during the pendency of divorce or separation proceedings. Since order for payment of maintenance is interim in nature and Courts have discretion in determining the amount of interim maintenance based on various factors, including the needs of the requesting party, the paying party's ability to pay, and the standard of living during the marriage and grounds taken by the petitioner seeking modification of order are not sufficient, this Court does not think proper to interfere with order dated 27.7.2022.

6. This modification petition is, accordingly, dismissed.

(Prabhat Kumar Singh, J)

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