

(2020) 01 PAT CK 0335

In the Patna High Court

Case No : Criminal Miscellaneous No. 2038 Of 2020

Deepak Kumar Verma

APPELLANT

Vs

State Of Bihar And Anr

RESPONDENT

Date of Decision : 23-01-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 204, 482

Indian Penal Code, 1860 — Section 498A

Dowry Prohibition Act, 1961 — Section 4

Citation : (2020) 01 PAT CK 0335

Hon'ble Judges : Rajendra Kumar Mishra, J

Bench : Single Bench

Advocate : Ashhar Mustafa, Satya Nand Shukla, Praveen Kumar, Uday Pratap Singh

Final Decision : Allowed

Judgement

1. Heard learned counsel for the petitioner, learned Additional Public Prosecutor for the State and the learned counsel for the opposite party no.2.

2. By filing this application, under Section 482 of the Code of Criminal Procedure, the petitioner has invoked the extraordinary jurisdiction of this Court to quash the order dated 02.12.2019 passed in Criminal Revision No.102 of 2019 (CIS), whereby and whereunder the Sessions Judge, Gaya, dismissed the aforesaid Criminal Revision of the petitioner, preferred against the order dated 29.04.2019 passed by the Sub Divisional Judicial Magistrate, Gaya, in Complaint Case No.181 of 2017/T.R. No.2651 of 2018, rejecting the prayer of the petitioner to confirm the provisional bail bond of the petitioner as furnished by him in the light of the order dated 26.03.2018 passed in A.B.P. No.582 of 2018 and A.B.P. No.583 of 2018 by the Sessions Judge, Gaya, and cancelling his provisional bail..

3. The facts leading to this case is that the opposite party no.2 filed Complaint Case No.181 of 2017 for the offence under Section 498(A) of the Indian Penal Code and Section 4 of the Dowry Prohibition Act against the petitioner and his

family members in which after passing of the summoning order under Section 204 of the Code of Criminal Procedure, the petitioner filed A.B.P. No.583 of 2018, whereas his other family members filed A.B.P. No.582 of 2018 in the court of the Sessions Judge, Gaya. After hearing the parties, the prayer for pre-arrest bail of the petitioner and his family members were allowed provisionally by the Sessions Judge, Gaya, vide order dated 26.03.2018. Accordingly, the petitioner and his family members furnished the provisional bail bond in the court of the Sub Divisional Judicial Magistrate, Gaya. Thereafter, the petitioner filed an application in the court of the Sub Divisional Judicial Magistrate, Gaya, for confirmation of his provisional bail but the same was rejected and the provisional bail of the petitioner was cancelled on 29.04.2019. Against the aforesaid order, the petitioner preferred Criminal Revision No.102 of 2019 (CIS) in the court of the Sessions Judge, Gaya, who also dismissed the aforesaid Criminal Revision of the petitioner vide order dated 02.12.2019, which is assailed by filing the present application.

4. Learned counsel for the petitioner submits that due to wedlock of the petitioner and the opposite party no.2, there are two children and the petitioner is still ready to keep his wife (the opposite party no.2) and children properly but the opposite party no.2 does not want to live at her matrimonial house.

5. On the other hand, learned counsel for the opposite party no.2 submits that he has no objection in allowing the present application and continuing the provisional bail of the petitioner, if the petitioner keeps his wife (opposite party no.2) and two children properly.

6. In view of the aforesaid submission of the learned counsel for the petitioner and the learned counsel for the opposite party no.2 and also considering that the petitioner is ready to keep the opposite party no.2 and children properly, the order dated 29.04.2019 passed by the Sub Divisional Judicial Magistrate, Gaya, in Complaint Case No.181 of 2017/T.R. No.2651 of 2018, rejecting the prayer of the petitioner to confirm the provisional bail of the petitioner and cancelling the same and the order dated 02.12.2019 passed in Criminal Revision No.102 of 2019 (CIS) by the Sessions Judge, Gaya, affirming the aforesaid order dated 29.04.2019 are, hereby, quashed and this application is allowed. However, the trial court is directed to confirm the provisional bail of the petitioner after hearing the parties within six months.