

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41320 of 2014

Arising Out of PS.Case No. -115 Year- 2010 Thana -RAJAPAKAR District- VAISHALI(HAJIPUR)

Dukhan Prasad Singh

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar Singh

For the Opposite Party/s : Mr. Chandra Bhushan Prasad(App)

CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

2 14-01-2015

Heard.

The petitioner is the husband of the informant was granted bail undisputedly by the learned Sessions Judge, Vaishali at Hajipur in B.P.No.63 of 2011. The order of anticipatory bail contained a condition that the petitioner shall keep the lady with full dignity and respect in his house. The lady in stead of going with the petitioner and living with him, filed a petition stating that she arrived at the house of the petitioner and was confronted by his elder and younger brothers who were bent upon killing her by cutting her into pieces with a Kulhari. Before filing the above petition, she also filed a petition before the learned Principal Judge, Family Court, Vaishali in which she stated as appears from the annexed copy of the petition that it was dangerous for her to go to the house of the petitioner as his family members were



inimically disposed towards her and it may not be safe for her to go there. Thus, what appears from the very statement of the lady made before different fora is that she had not gone to the house of the petitioner and that her allegation that she was confronted by the elder and younger brothers of the husband who had picked up a Kulhari appears doubtful.

However, that particular allegation made in Cr.Miss.No.60 of 2012 before the learned Sessions Judge seeking the cancellation of order of anticipatory bail passed in ABP No.63 of 2011 on 23.05.2011 appeared quite weighty to the learned Sessions Judge, Vaishali at Hajipur and he did not hesitate in cancelling his bail order passed on 23.5.2011.

It is a settle law that an order cancelling an order of bail could be passed after considering the probability as regards the allegations on which the order of bail in favour of an accused is sought to be cancelled and in the appreciation of such probabilities in a civil suit the standard of proof on the balance of probability has to be adopted. It was held, like that in the case of Delhi Administration v. Sanjay Gandhi reported in AIR 1978 SC 961. The Chief Justice of India writing the judgment pointed out that the probabilities could be weighed as it is done in a civil suit. The two statements of the lady- one made before the learned Sessions

Judge and the other before the Principal Judge, appears not raising the probability that the lady have been confronted by the two brothers of the husband so as to be killed and her own statement made in her petition filed before the Principal Judge, Family Court, Hazipur points out that she had not gone to the house of the petitioner. Thus, the lady appears not complied with the condition of bail and as such there was no reason for the learned Sessions Judge to cancel his own order of anticipatory bail.

Regard being had to the facts and circumstances of the case, the Court directs the petitioner to furnish fresh bail bond of the value which was executed by the petitioner in the light of the order dated 23.05.2011 passed in ABP No.63 of 2011 by the learned Sessions Judge, Vaishali at Hajipur in connection with Raja Pakar P.S.Case No.115 of 2010.

(Dharnidhar Jha, J)

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