

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51027 of 2015

Arising Out of PS.Case No. -25 Year- 2014 Thana -MAHILA P.S. District- NALANDA
(BIHARSHARIFF)

Raj Laxmi Wife of Shri Suranjit Kumar, Daughter of Shri Shivdhar Yadav,
presently residing at Mohalla- Block Colony, Biharsharif, P.S.- Laheri,
District- Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. Shri Suranjit Kumar, son of Late Mouji Yadav, resident of village-
Patuana, P.S.- Biharsharif, District- Nalanda

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Bansh Dubey
For the Opposite Party/s : Mr. Bisheshwar Ram (App)

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 09-12-2015 Heard learned counsel for the petitioner and learned
counsel for the State.

The present application under Section 439(2) of the
Code of Criminal Procedure has been filed on behalf of the
petitioner seeking cancellation of bail granted to the opposite party
no.2 vide order dated 11.09.2015 passed in Cr.Misc.No. 18699 of
2015.

The opposite party no. 2 has been made accused in
Mahila P.S. Case No. 25 of 2014 registered under Sections 498-A,
379 and 354 of the Indian Penal Code as well as Sections 3 and 4
of the Dowry Prohibition Act.



It has been contended that in the anticipatory bail application filed by the opposite party no.2, averments were made that he is willing to keep his wife (the petitioner) with full dignity and honour, but after the grant of anticipatory bail, the petitioner has refused to accommodate the petitioner in her matrimonial home.

It would be evident from the aforesaid order dated 11.09.2015 that no such condition that the petitioner shall keep his wife in her matrimonial home with dignity and honour was imposed.

It is the well settled law that bail already granted can be cancelled only on very cogent and overwhelming circumstances. Broadly, these are the considerations which justify cancellation of bail :-

- (i) Likelihood of the accused fleeing from justice;
- (ii) Tampering with prosecution evidence; and
- (iii) Abuse of the liberty granted to the accused.

In the present case, none of the aforesaid grounds are applicable. The petitioner has instituted a criminal case against the opposite party no. 2, which is to be proved in the Court of law by leading evidence. In absence of any cogent and overwhelming circumstances the bail already granted to the opposite party no. 2

cannot be cancelled.

Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

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