

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.24478 of 2016

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Sushil Kumar Singh, Son of Sri Hanuman Singh, resident of Village- Sarai
P.S. Mohania, District-Kaimur (Bhabua), presently resident of Village-
Bandipur, P.S. Ramgarh, District- Kaimur (Bhabua).

.... Petitioner

Versus

1. The State of Bihar.

2. Archana Devi, daughter of Sri Sillu Prasad Singh, resident of Village-
Khairati, P.S. Kurhani, District- Kaimur (Bhabua).

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Yogendra Kumar, Advocate.

For the State : Mr. Ram Anurag Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 29-06-2016 Heard learned counsel for the petitioner and learned
counsel for the State.

The present application has been filed, seeking
modification in the order dated 14.07.2015, passed in Cr. Misc.
No. 22601 of 2013, by which the petitioner was granted
anticipatory bail. Earlier the matter was referred for mediation to
the Patna High Court, Mediation Centre, vide order dated
12.08.2013. The mediator submitted his report dated 26.06.2014
to the effect that “in spite of best and sincere efforts, the dispute
between the parties could not be resolved through the process of
mediation. The mediation has thus failed”. Thereafter, when the
matter was taken up on 14.07.2015, none appeared on behalf of



the opposite party no. 2. On the very date on behalf of the petitioner it was submitted that the petitioner was ready to keep his wife with all dignity but the same was not acceptable to her and further it was also submitted that the petitioner has been directed by the family court to pay Rs. 4,000/- towards maintenance per month to the daughter of the informant. The submission advanced on behalf of the petitioner about his willingness and readiness was not worth consideration, since the mediation had already been failed, as per report dated 26.06.2014 of the mediator.

The material consideration for grant of anticipatory bail to the petitioner was the order of the family court as to pay Rs.4,000/- per month towards maintenance of opposite party no.2 as also the facts and circumstances of the case.

The trial court was directed to verify the said order of the family court regarding maintenance of opposite party no. 2 and if such order had been passed, then further direction to enlarge the petitioner on bail on furnishing bail bond of Rs. 10,000/-(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Bhabua, Kaimur, in Ramgarh P.S. Case No. 48/2013 subject to the condition as laid down under Section 438(2) Cr. P.C.

The apprehension of the petitioner regarding

cancellation of bail bond by the S.D.J.M., Bhabua, is misconceived and the modification of the order as has been sought for is unwarranted, since willingness and readiness of the petitioner to keep his wife was not a material consideration to grant him bail, nor it was a condition for acceptance of bail bond by the court below.

There is nothing on record to show that the court below is of such view to cancel the bail. Though vide Annexure-3 order dated 03.05.2016, has been brought on record. It does not transpire from the order dated 03.05.2016 that under what provision of the Cr. P.C. and for what purpose the petitioner has been examined as a enquiry witness. The counsel for the petitioner is also unable to demonstrate regarding the apprehension of the petitioner about cancellation of bail bond. The petitioner has been granted bail under Section 438 of the Code of Criminal Procedure, therefore, it can be cancelled under the provision of 439(2) of the Code only.

So far the cancellation of bond and bail bond is concerned, it can be only done where a bond is forfeited for breach of condition. It is made clear that it was not a condition for grant of bail nor there was such direction in the order that the petitioner shall bring his wife back to matrimonial home. Thus the entire

apprehension of the petitioner is misconceived about cancellation of bail bond and the modification as has been sought for is unwarranted.

The application is disposed of.

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(Sudhir Singh, J)