

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.33062 of 2014

Arising Out of PS.Case No. -53 Year- 2011 Thana -CHANAN District- LAKHISARAI

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Bir Balak @ Bir Balak Kumar Son of Sri Ram, resident of village-Lakhochak ,
P.S. -Chanan , Distt. -Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Babita Devi daughter of Bajrangi Ram, resident of Bhawanipur, P.S. Manikpur, District- Lakhisarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 09-03-2016

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Without going into the merits of the case, learned
counsel for the petitioner submits that he was not ready to keep the
opposite party no. 2 as his wife which has been stated in the main
application itself and even at the time of seeking anticipatory bail
before this Court such stand was taken leading to the Court directing
the petitioner to surrender and seek regular bail. Thus, it is
submitted that the situation not having changed, the petitioner is not
in a position to keep the opposite party no. 2 with him as his wife. He
further submits that in the last order of the Court dated 02.03.2016,
though it has been written that a stand was taken before the Court
both on affidavit as well as orally that the petitioner was ready to keep
the opposite party no. 2 as his wife but in the pleadings, the

petitioner has never taken such a stand.

Learned counsel for the opposite party no. 2 submits that the conduct of the petitioner has not been fair either before the Court or before the employer i.e., the *Sashastra Seema Bal* (SSB) inasmuch as the stand was taken before the Court on 29.08.2014 that he was still ready to keep the informant and the Court was persuaded to grant provisional bail on such submission and further on the stand that the petitioner was paying the opposite party no. 2 Rs. 2,000/- per month, which was completely false since only upon the intervention of the Court, the payment was made up-to-date by transferring Rs. 55,000/- in favour of the opposite party no. 2 which translates into payment for about 27 months and thus clearly even prior to filing of the application, the petitioner had not been paying the said Rs. 2,000/- per month to her.

Having considered the aforesaid facts and circumstances of the case, the Court has no hesitation to record that the petitioner has outrightly mislead the Court and has taken advantage of the indulgence by stating and submitting facts which were neither correct nor there was any *bona fide* or intention to indicate that the submission made on his behalf were also true in reality. The fact that there is a categorical recording with regard to the stand of the petitioner before the Court on 29.08.2014 that he has been giving Rs. 2,000/- per month to the informant and further that he was still ready to keep her, having been found to be false as no such payment was made much prior to even filing of the case and further that there

was no intention of the petitioner to keep the opposite party no. 2 with him, has left the Court with no option but to reach to the conclusion that the provisional bail granted to the petitioner was based on falsehood and misrepresentation. Moreover, no petition was filed on behalf of the petitioner for any modification or review of the order dated 29.08.2014 to the extent relating to the stand with regard to the petitioner paying Rs. 2,000/- per month to the informant and he being ready to keep her as his wife, also clearly indicates that a deliberate stand was taken to such effect before the Court only to persuade the Court and pass a favourable order.

Accordingly, in order to maintain judicial purity and also to ensure that the parties are not allowed to take advantage of patent falsehood and misrepresentation, the Court has no hesitation to cancel the provisional bail granted to the petitioner under order dated 29.08.2014. The petitioner shall surrender before the Court below latest by 19th March, 2016, failing which the Court below shall take all coercive measures to ensure that he is taken into custody.

The order be communicated to the Court below through Fax also latest by tomorrow.

(Ahsanuddin Amanullah, J.)

P. Kumar

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