

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36803 of 2016

Arising Out of PS.Case No. -431 Year- 2014 Thana -MADHUBANI TOWN

District- MADHUBANI

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Md. Mahtab Alam, S/o Noor Alam, resident of Stadium Road, Ward No. 22, P.O.- Bhouara, P.S.- Town, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Md. Saiyum @ Mohammad Sayyum @ Saiyum, Son of Late Md. Jankhalifa, resident of Mohalla- Jhanjharpur Nagar, Panchayat Langra Chowk, Ward No. 12, P.S.- Jhanjharpur, District- Madhubani.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kr. Prasad, Adv.

For the Opposite Party/s : Mr. Shailendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 14-12-2016

Heard the parties.

The present application, under Section 439(2) of the Code of Criminal Procedure, has been filed seeking cancellation of anticipatory bail granted to opposite party No. 2, who is on bail in connection with Madhubani Town P.S. Case No. 431 of 2014, registered for the offences



punishable under Sections 498A, 363 and 368 read with Section 34 of the Indian Penal Code, on the basis of statement made on his behalf by learned senior counsel in that case that his son, who is the husband of the victim lady, was not residing with him. A statement was made in paragraph 11 of Cr. Misc. No. 41248 of 2015 that the son of the petitioner (husband of the victim) had gone to Netherland with his wife (the victim) in the year 2006 itself and, thereafter, they did not return to the petitioner's place.

Opposite party No. 2 is the father-in-law of the victim.

For the purpose of seeking cancellation of bail, learned counsel, appearing on behalf of the petitioner, has submitted that it has come to the knowledge of the petitioner (the informant), on the basis of information received under the Right to Information Act, that the victim had never travelled out of the country and she is still traceless. It has also been submitted that the petitioner is not appearing before the authorities/Central Bureau of Investigation (CBI) to which investigation has now been transferred, so that at least whereabouts of the victim could be known.

Upon perusal of the application for cancellation



of bail, I find that it is not the case that opposite party No. 2 has ever misused the privilege of bail. So far his appearance before the CBI is concerned, there was specific direction in the order, dated 22.06.2016, that he shall present himself before the police or the Court, as and when required, and in the event of failure on his part, his bail bond shall be liable to be cancelled.

The Court reiterates the said observation made in the said order, dated 22.06.2016, passed in Cr. Misc. No. 41248 of 2015.

It is indicated that if, at any stage, it is found that opposite party No. 2 has deliberately refused to appear before the police or the CBI, as the case may be, or before the Court, either of the parties, viz., State of the informant, shall be at liberty to approach this Court for cancellation of bail.

This application stands disposed of with the observation as above.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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