

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27517 of 2013

Arising Out of PS.Case No. -193 Year- 2008 Thana -MAUZAHDIPUR District- BHAGALPUR

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Santosh Kumar Gupta @ Bhola @ Santosh Prasad Gupta son of Late Gopal Prasad Gupta Resident Of Hussainabad, P.S.- Mojahidpur, District- Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. Radha Devi wife of Santosh Kumar Gupta @ Bhola And daughter of Bishnu Prasad Gupta Resident Of Mohalla- Urdu Bazar, P.S.- Tatarpur, District- Bhagalpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jagarnath Singh

For the Opposite Party/s : Mrs. Anita Kumari Singh (App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

7 05-12-2016 Heard Sri Jagarnath Singh, learned counsel , who was assisted by Sri Praveen Kumar Sinha, learned counsel for the petitioner , learned Additional Public Prosecutor as well as Sri Mrityunjay Prasad Singh, learned counsel who has appeared on behalf of the informant / opposite party no. 2.

The petitioner who was earlier granted the privilege of bail under Section 438 (2) of the Cr.P.C. vide order dated 18.5.2009 passed by learned Sessions Judge, Bhagalpur has approached this court invoking its inherent jurisdiction under Section 482 of the Code of Criminal Procedure , 1973 with a prayer to quash an order dated 11.4.2013 passed by the same



learned Sessions Judge, Bhagalpur . By the said order the learned Sessions Judge has entertained a petition filed under section 439 (2) of the Cr.P.C. for cancellation of bail earlier granted to the petitioner vide order dated 18.5.2009 passed in A.B.P. No. 1945 of 2008 and A.B.P. No. 440 of 2009 .

The petitioner/ husband of the opposite party no. 2/ informant was made accused in Mojahidpur P.S. Case No. 193 of 2008 which was registered on the basis of complaint case vide Complaint Case No. 2108 of 2008. The case was registered for the offence under Section 494, 419, 420, 468, 120(B) of the Indian Penal Code. The petitioner after apprehending his arrest had approached the learned Sessions Judge for grant of anticipatory bail. Learned Sessions Judge after noticing the fact that the petitioner and the informant had compromised and they were living their conjugal life for last 25 days had extended the privilege of grant of anticipatory bail to the petitioner. Learned counsel for the petitioner has also drawn my attention to Annexure –‘3’ to the petition i.e. a copy of petition filed by the informant dated 16.1.2010 wherein she has stated that she was voluntarily going to her parent’s house . A plea has been taken by learned counsel for the petitioner that the petitioner as per order passed in maintenance case is making payment of maintenance



as per direction regularly however the learned Sessions Judge entertained a petition filed under section 439(2) of the Cr.P.C. for cancellation of his bail which was earlier granted in his favour. Learned counsel for the petitioner submits that while the petitioner was granted bail vide Annexure –‘2’ there was no specific condition that bail was being granted only with a condition that the petitioner will keep the informant as wife with respect and dignity, however the learned Sessions Judge has noticed that the informant was living happily with the petitioner and on merit had extended the privilege of anticipatory bail. He submits that unless the condition incorporated in the bail order is specifically violated same may not be examined. He submits that without any violation of such condition the learned Session Judge has incorrectly passed the order for cancelling earlier bail .

Learned Additional Public Prosecutor as well as learned counsel for the informant /opposite party no. 2 have opposed the prayer and submits that the learned Sessions Judge has rightly cancelled the bail bond of the petitioner which requires no interference.

Besides hearing I have perused the material available on record. Earlier by order dated 14.11.2014 a bench of this court had stayed the operation of the impugned order . Meaning thereby that



petitioner is continuing on the same bail bond which was executed earlier. It is also evident that this court had directed the petitioner to continue with payment of Rs. 3000/- to the opposite party no. 2. The fact regarding payment of maintenance as per earlier order has not been disputed by learned counsel for the opposite party no. 2.

Be that as it may, considering the fact that there is no specific allegation of violation of the condition imposed while earlier granting anticipatory bail certainly at subsequent stage only on the basis of complaint bail bond was not required to be cancelled. Accordingly, order dated 11.04.2013 is hereby set aside and petitioner is permitted to remain on the same bail bond. However, it is directed that petitioner shall render full co-operation during the proceeding before the court below and if at subsequent stage any complaint is made by the informant regarding willful interference by the petitioner, the informant would be at liberty to approach this court.

The petition stands allowed.

(Rakesh Kumar, J)

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