

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25604 of 2014

Arising Out of PS.Case No. -208 Year- 2012 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

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1. Mukesh Sah S/o Late Sadanand Sah
2. Kamli Devi W/o Late Sadanand Sah Both are Resident of Village Dhanouri, P.O.
Chotti Naki, P.S. Sanokhar, District Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Guriya Devi W/o Mukesh Sah Resident of Village Dhanouri, Post Chhoti Naki,
P.S. Sanokhar, District Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhay Kumar
For the State : Mr. Mayanand Jha, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 03-07-2017

1. The petitioners seek quashing of the order dated 31.05.2014 passed by the learned S.D.J.M. Bhagalpur in Complaint Case no. 208 of 2012. The learned Magistrate as per impugned order refused to confirm the bail of the petitioners as they did not comply the direction of the Sessions Judge given in order granting anticipatory bail to the petitioners.

2. Heard both sides.

3. The facts, in brief, is that the O.P. no. 2 filed a Complaint Case no. 208 of 2012 on the file of C.J.M., Bhagalpur for the offence under Section 498-A and 323 of the I.P.C. The Magistrate finding prima facie case for the offence under Section 498-A of the I.P.C., ordered



for issuance of summons against these two petitioners only out of six accuseds persons. Both the petitioners filed Anticipatory Bail Petition no. 2151 of 2012. The learned Sessions Judge finding element of restoration of good relation between the parties, ordered for release of the petitioners on provisional bail in the event of their arrest/surrender within two weeks' on the date of receipt of the copy of the order. He further directed that the provisional bail of the petitioners shall be confirmed on happening of the either of the two eventualities namely, (i) an offer being given, the complainant return to her matrimonial home and starts leading conjugal life with the petitioner no. 1 and after observations of six months by the court below to his satisfaction and no. (ii) the complainant if willfully refuses to accompany the petitioners. The petitioners filed a petition on 26.03.2014 praying therein to confirm their bail which was refused by the court below. The said order has been sought to be quashed.

4. The learned counsel for the petitioners submits that the petitioner no. 1 is a painter and he lives in Punjab in connection with his livelihood. After getting anticipatory bail, the petitioner no. 1 visited at the place of his wife for bringing him at his place. The O.P. no. 2 flatly refused to visit at his place. The O.P. no. 2 appeared in the court where the petitioners persuaded her to go to their place. In spite of sincere effort, the complainant did not come at their house and so



on account of her refusal to go at their place, the petitioners prayer for confirmation of bail should have been allowed.

5. The learned APP, on the other hand, opposed the prayer.

6. On perusal of the impugned order, I find that the learned Magistrate while rejecting the prayer of confirmation of bail has observed that the petitioners have not complied the directions of the Sessions Judge given in the order admitting the petitioners on provisional bail. There is nothing on records to show that the petitioners made sincere effort to bring the complainant to their house.

7. In view of the above discussions, I do not find any merit in this criminal miscellaneous application which is accordingly, dismissed. It is, however, observed that if the petitioners pray for bail afresh, the same shall be considered on merit by the court below without being prejudiced by the order of this Court.

(Sanjay Kumar, J)

rohit/-

AFR/NAFR	NAFR
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