

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.16244 of 2017

Arising Out of Complaint Case No. -852 Year- 2015 Thana -BHABHU(KAIMUR) District-
BHABHUA (KAIMUR)

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1. Deepak Singh, S/o Shri Sardar Singh Yadav, Resident of Village- Sadullahpur,
P.S.- Ramgarh, District- Kaimur (Bhabua).

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sangita Devi, wife of Deepak Yadav, daughter of Sri Bhutan Singh, Resident of
Village- Awarhiyan, P.S.- Durgawati, District- Kaimur (Bhabua).

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Yogendra Kumar, Adv.

For the State : Mr. Madhura Nand Jha, APP

For the Opposite Party No.2 : Mr. Tribhuwan Narayan, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 18-09-2017

Heard learned counsel for the petitioner and learned
counsel for the complainant-opposite party no.2.

2. In the present application preferred under Section 482 of
the Code of Criminal Procedure (for short 'Cr.P.C.'), the petitioner
has prayed for quashing of the order dated 06.02.2017 passed by the
learned Sessions Judge, Kaimur, Bhabua in Cr.Misc. Case No. 30 of
2016 by which the anticipatory bail granted to the petitioner vide
order dated 20.11.2015 in A.B.P. No. 1127 of 2015 has been
cancelled in exercise of power conferred under Section 439(2) of the
Cr.P.C.

3. Learned counsel for the petitioner submits that the
petitioner has been made accused in Complaint Case No. 852 of 2015



in which cognizance has been taken for the offence punishable under Section 498-A of the Indian Penal Code (for short 'IPC'). As the petitioner was apprehending arrest, he filed an application under Section 438 of the Cr.P.C. in the court of Sessions Judge, Kaimur, vide A.B.P. No. 1127 of 2015, which was allowed by the learned Sessions Judge on 20.11.2015. At the time of hearing the said anticipatory bail petition, the petitioner had given an undertaking that he would keep his wife with respect and dignity in her matrimonial home and the complainant-wife had also agreed to go back to her matrimonial home in view of the undertaking given by the petitioner. He has submitted that subsequently the complainant filed an application under Section 439(2) of the Cr.P.C. seeking cancellation of pre-arrest bail granted vide order dated 20.11.2015 on the ground that she was ousted by the petitioner from her matrimonial home.

4. He has submitted that the said allegation leveled by the complainant was completely false. He has submitted that after living in the matrimonial home for about five months the complainant deserted the petitioner and voluntarily left her matrimonial home. He has submitted that the show cause filed by the petitioner before the learned Sessions Judge was not appreciated properly and, believing on the statement of the complainant, the bail of the petitioner was cancelled.



5. On the other hand, learned counsel for the complainant-opposite party no.2 has submitted that the petitioner had obtained bail by giving a false undertaking before the court below that he would keep the complainant with respect and dignity in her matrimonial home. He has submitted that after obtaining bail and after keeping the complainant for a few months in the matrimonial home, the petitioner again started subjecting her to cruelty and driven her out from the matrimonial home. He has submitted that in view of the conduct of the petitioner the court below has rightly cancelled the bail granted to the petitioner in exercise of power conferred under Section 439(2) of the Cr.P.C.

6. I have heard learned counsel for the parties at length and perused the record.

7. Admittedly, the marriage of the complainant with the petitioner had taken place more than five years ago. As it was a case of matrimonial discord and incompatibility and relationship was strained, a case under Section 498-A of the IPC was instituted. The complainant has alleged that the petitioner used to subject her to cruelty whereas the case of the petitioner is that he is innocent and has been falsely implicated in the case. Under such circumstance, the petitioner had given an undertaking before the court that he was willing to keep the complainant with dignity and respect. It is also an



admitted fact that after the pre-arrest bail was granted to the petitioner by the court below, vide order dated 20.11.2015, the complainant lived with the petitioner in the matrimonial home for few months after which the complainant alleged that she was driven out of the matrimonial home whereas the petitioner asserts that the complainant voluntarily deserted him and left the matrimonial home. The stand of the parties has neither been enquired into nor investigated by anyone. Thus, it is difficult to come to any definite conclusion as to who is at fault.

8. Under such circumstance, in the opinion of this Court, there was no reasonable ground before the court below to cancel the bail bond of the petitioner. Accordingly, the impugned order dated 06.02.2017 is set aside. The petitioner shall be allowed to continue on bail on the bond and sureties already furnished in Complaint Case No. 852 of 2015 in compliance with the earlier order dated 20.11.2015 passed by the learned Sessions Judge, Kaimur, Bhabua.

9. The application stands allowed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	19-09-2017
Transmission Date	19-09-2017

