

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8587 of 2017

Arising Out of PS. Case No.-6056 Year-2015 Thana- NAWADAH COMPLAINT CASE
District- Nawada

=====

Hasiba Khatoon, wife of Md. Mustafa Ansari, resident of Village- Khanpura,
P.S.- Akbarpur, District- Nawada, at present daughter of Md. Islam Ansari,
resident of Village- Jalalpur, P.S.- Giriyak, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Md. Mustafa Ansari, son of Md. Azad Ansari, resident of Village- Khanpura,
P.S.- Akbarpur, District- Nawada.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Anil Chandra
For the Opposite Party/s : Mr. SRI AJAY KUMAR JHA

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 03-01-2018 Heard learned counsels for the parties.

The present application has been filed for cancellation of provisional anticipatory bail granted to O.P. No. 2 for six months vide order dated 18.2.2016 passed in Cr. Misc. No. 8127 of 2016. Further prayer has been made for quashing the order dated 6.9.2016 passed by the learned ACJM- III, Nawada in Complaint Case No. 6056 of 2015, whereby the provisional anticipatory bail of the petitioner has been confirmed.

The O.P. No.2 being husband of the petitioner was granted provisional anticipatory bail for six months vide order dated 18.2.2016 passed in Cr. Misc. No. 8127 of 2016 in complaint case wherein process was directed to be issued after cognizance



being taken for the offence punishable under section 498A/34 of the IPC on submission made on behalf of O.P. No. 2 and statement made in paragraph 9 of the petition that he is ready to keep the complainant with full dignity and honour. The learned court below was supposed to issue notice to the complainant and on appearance the petitioner was supposed to take her to keep her as wife. The provisional anticipatory bail was to be confirmed in three eventualities - (I) if the matrimonial harmony is substantially restored or (ii) if the complainant fails to appear before the learned court below or (iii) if the complainant gets reluctant to reconcile the issue.

The impugned order dated 6.9.2016 reflects that in pursuance to this Court's order, the O.P. No. 2 surrendered before the learned court below on 29.2.2016 and furnished the bail bonds. On notice the petitioner appeared on 18.3.2016. On query, the petitioner replied that she wants to go with the O.P. No. 2 but she sought for adjournment since she did not bring her kids. On the other hand, O.P. No. 2 shown his willingness to take the petitioner to her matrimonial house. On the next date both the parties appeared but again the complainant put a condition that unless O.P. No. 2 executes a bond, she will not go with him. On the persuasions made by the



learned court below, the petitioner went out of the court and thereafter, the O.P. No. 2 wrote in the margin of the order-sheet that he is taking his wife with him but just after ten to fifteen minutes, two separate petitions were filed; one by the petitioner that she will not go with O.P. No. 2 unless he executes a bond. Thereafter, on next three dates the O.P. No. 2 was present but the petitioner failed to appear and on the fourth day the petitioner filed application for cancellation of bail of O.P. No. 2. The learned court below confirmed the provisional anticipatory bail finding that the petitioner was reluctant to reconcile the issue and thereby was not following the conditions mentioned in the order granting provisional anticipatory bail to the O.P. No. 2. However, it is submitted by learned counsel for the petitioner that she is still ready to reconcile the issue.

The parameters for grant of bail and its cancellation are quite different. There does not appear from the records that O.P. No. 2 has misused the privilege of anticipatory bail. Hence, this Court is not inclined to interfere. However, since the petitioner is still ready to reconcile the issue, in view of the judgment of the Apex Court in the case of K. Srinivas Rao Vs. D.A. Deepa (2013) 5 Supreme Court Cases 226, the learned court below is expected to issue notice to the O.P. No. 2 and make an effort to



mediate the issue.

This application is accordingly disposed of.

(Dinesh Kumar Singh, J)

anil/-

U			
---	--	--	--

