

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.313 of 2018

Arising Out of PS.Case No. -2 Year- 2017 Thana -MAHILA PS

District- BUXAR

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Shiv Muni Devi @ Raj Muni Devi, Wife of Sri Kedhu Sonar
R/o Vill Gola Bazar, P.S. Buxar (Nagar), District - Buxar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Kedhu Sonar @ Ram Kishun, S/o Late Sitaram Sonar.
3. Tara Devi, W/o Ram Lakhan Verma, R/o Vill. Gola Bazar,
P.S. Buxar (Nagar), District - Buxar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajiv Ranjan Kr. Pandey, Adv.

For the State : Mr. Awadhesh Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

- 3 04-04-2018 The opposite party Nos. 2 and 3, who are the husband of the petitioner/informant and the second wife of opposite party No. 2 respectively have been granted bail *vide* order dated 07.11.2017, passed by the learned Additional District Judge-VI, Buxar in B.P. No. 537 of 2017 in connection with Mahila P.S. Case No. 02 of 2017,



instituted for the offences punishable under Sections 498(A), 341, 323 and 504 of the Indian Penal Code.

The opposite party Nos. 2 and 3 had preferred an anticipatory bail application before this Court *vide* Cr. Misc. No. 50346 of 2017, which was pending before the High Court. However, in the meantime, the opposite parties were arrested and were sent to judicial custody on 14.10.2017. It so happened that a Bench of this Court, in the absence of any communication about the arrest of opposite party Nos. 2 and 3, granted anticipatory bail to them *vide* order dated 17.10.2017.

The learned Sub-Divisional Judicial Magistrate, Buxar was informed by the opposite party Nos. 2 and 3 that an anticipatory bail application had already been filed before the High Court and that the same would be withdrawn. However, the learned Sub-Divisional Judicial Magistrate, on hearing the petition, rejected the prayer for bail of opposite party Nos. 2 and 3. Thereafter, the opposite party Nos. 2 and 3 were granted bail by the learned Additional District Judge-VI, Buxar, *vide* B.P. No. 537 of 2017.

A perusal of the bail application preferred before the court below reveals that in paragraph 2 thereof,



it was clearly stated by the opposite parties that during the pendency of the anticipatory bail application before the High Court, they were arrested. It was also mentioned in the aforesaid application that on 17.10.2017, a Bench of the High Court had granted anticipatory bail to them. Nonetheless, the opposite party Nos. 2 and 3 were granted bail on merits by the learned court below.

The petitioner/informant seeks cancellation of the bail of opposite party Nos. 2 and 3 on the sole ground that the opposite party No. 2 ought to have withdrawn the petition which was filed in the High Court and not doing so, only reflects a casual approach in handling the litigation in the High Court, thereby creating a piquant situation where anticipatory bail has been granted to the opposite party Nos. 2 and 3 by the High Court and simultaneously regular bail has also been granted by the learned court below.

Since the opposite parties were arrested during the pendency of the anticipatory bail application before this Court, it may be presumed that there had been a lack of communication to the concerned Bench in the High Court. No motive can be attributed to opposite party Nos. 2 and 3, who have been granted bail on merits after having been taken into custody.



No good ground appears to have been made out by the petitioner/informant for cancellation of bail of opposite party Nos. 2 and 3.

The petition is, thus, dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

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