

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.61994 of 2017

Arising Out of PS. Case No.-26 Year-2016 Thana- BAIKUNTHPUR District- Gopalganj

Rita Devi, daughter of Dasrath Rai, resident of Village- Hankarpur, Police Station- Esuaapur, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Parma Yadav, son of Jhallu Yadav,
3. Paspati Devi, Wife of Parma Yadav,
4. Achhelal Yadav,
5. Mukesh Kumar Yadav @ Mukesh Kumar, Both sons of Parma Yadav.
6. Saroj Devi, Wife of Achhelal Yadav,
7. Parmila Devi, Wife of Jawahar Yadav, All resident of Village- Munja (Bakhri), Police Station- Baikunthpur, District- Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh
For the Opposite Party/s : Mr. Bharat Lal

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 26-09-2018

Heard learned counsels for the parties.

The present application has been filed for cancellation of anticipatory bail granted to O.P. Nos. 2 to 7 vide order dated 19.4.2016 in Cr. Misc. No. 16778 of 2016 on the ground that they failed to comply the conditions of bail.

The factual matrix of the case is that O.P. Nos. 2 to 7 being parents, brothers and brother's wife of the husband of the petitioner, preferred Cr. Misc. No. 16778 of 2016 for grant of anticipatory bail in Baikunthpur P.S. Case No. 26 of 2016 pending in the Court of learned ACJM-III, Gopalganj registered for the offences punishable under Section 498A, 341 and 323 of



the IPC and Sections 3 and 4 of Dowry Prohibition Act.

Considering the nature of accusation of torture and thrust of accusation against the husband of the petitioner who was in custody, O.P. Nos. 2 to 7 were granted anticipatory bail. Their bail bonds were directed to be accepted by the learned court below on filing separate affidavit to the effect that they will allow the petitioner to enjoy her share of property in the matrimonial house. It was also directed to get the said affidavit transmitted to the concerned police station.

The present application for cancellation of bail has been filed on the ground that though the O.P. Nos. 2 to 7 filed affidavit to the aforesaid effect before the learned court below and the same was transmitted to the concerned police station which gets reflected from the order dated 30.10.2017 passed by learned SDJM, Gopalganj, as contained in Annexure 8, but the O.P. Nos. 2 to 7 are not complying either of the terms of undertaking given before this Court, as well as in the affidavit.

From perusal of order dated 19.4.2016 passed in Cr. Misc. No. 16778 of 2016, it appears that the O.P. Nos. 2 to 7 were supposed to submit their affidavit before the learned court below and the learned court below was expected to transmit the same to the concerned police station. The order dated



30.10.2017 passed by learned SDJM, Gopalganj suggests that the affidavit was filed and it was transmitted to the concerned police station.

In that view of the matter, this Court is not inclined to interfere since the parameters of grant of bail and its cancellation are different. The bail is granted considering the nature of accusation while the bail can only be cancelled if the privilege of bail is misused or if it has been obtained basically by suppressing materials.

This application is, accordingly, dismissed.

(Dinesh Kumar Singh, J)

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