

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11258 of 2017

Arising Out of PS. Case No.-24 Year-2015 Thana- MAHILA PS District- Katihar

Samina Khatoon, Wife of SK. Nabi, Daughter of Late SK. Ibrahim, Resident of Village- Haflaganj Bazar Tola, P.S.- Muffasil, District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. SK. Nabi, Son of Late SK. Yusuf, Resident of Village- Patni Narayanapur, P.S.- Manihari, District- Katihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Suresh Prasad Sah @ Baranwal
For the Opposite Party/s : Mr. Damodar Prasad Tiwary

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

5 02-05-2018 As prayed for, learned counsel for the petitioner is permitted to make necessary correction in the petition.

The present application has been filed for cancellation of bail granted to O.P. No. 2 Sk. Nabi in connection with Katihar Mahila P.S. Case No. 24 of 2015 registered under sections 498A and 494/34 of the IPC.

The factual matrix of the case is that the O.P. No. 2 being the husband of the petitioner, preferred Cr. Misc. No. 292 of 2016 with a prayer for grant of anticipatory bail in a case registered under Sections 498A and 494 I.P.C. with specific



statement in paragraph no.16 that O.P. no.2 is ready to keep the informant as wife with dignity.

“ That the petitioner is ready to keep her with dignity and respect”.

Similar was the submission of his counsel.

Since at the time of hearing the informant and her husband were present in the court the informant accepted the offer of her husband in spite of the fact that he has performed marriage. Considering the stand of the parties the O.P. No. 2 was granted anticipatory bail with liberty to the informant/ present petitioner to file an application for cancellation of bail of the O.P. No. 2 if he violates the undertaking given before this Court which reads as follows:

“....The informant will be at liberty to file an application for cancellation of bail of the petitioner if the petitioner violates the undertaking given before this Court.”

In view of the aforementioned liberty, the present application has been filed when the O.P. No. 2 violated the undertaking by driving out the informant petitioner from the matrimonial house.

Considering the submission of the the counsel for the petitioner, this court vide order dated 2.8.2017 issued notice to



O.P. No. 2. The office note dated 17.10.2017 suggests that the process server has reported that O.P. No. 2 refused to take notice on the ground that he has already received notice by post. Hence the house service was effected. Accordingly, vide order dated 1.11.2017 the notice issued to O.P. No. 2 was directed to be treated as valid service.

This Court, vide order dated 17.1.2018, called for a report from the CJM, Katihar with regard to the present stage of the case and the period which is likely to be taken in concluding the trial. The report of the I/c Sub Divisional Judicial Magistrate, Katihar dated 3.2.2018 suggests that the matter is fixed on 20.2.2018 for supply of police paper and the trial is likely to be concluded within nine months.

Considering the fact that the O.P. No. 2 by violating the undertakings given before this Court has misused the privilege of bail. Moreover, in spite of notice issued by this Court, and after receiving the same, he chose not to appear deliberately, it is a case of further gross misuse of the privilege of bail.

In the circumstances, the bail granted to the O.P. No. 2 Sk. Nabi vide order dated 1.2.2016 in Cr. Misc. No. 292 of 2016 in connection with Katihar Mahila P.S. Case No. 24 of 2015 is



hereby cancelled.

The learned court below is expected to take all measures to secure appearance of O.P. No. 2 and to make efforts to conclude the trial expeditiously.

(Dinesh Kumar Singh, J)

anil/-

U			
---	--	--	--

