

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3299 of 2015

Arising Out of PS.Case No. -328 Year- 2011 Thana -SITAMARHI COMPLAINT CASE District -
SITAMARHI

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Raunak Khatoon D/O Sabir Hussain Khan Resident of vill-Kumma,P.S-
Sursand,Distt.-Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar
2. Ali Daj Khan S/O Late Shakoor Khan Resident of vill-Sonbarsa,Tola
Paharpur,P.S-Tariyani,Distt.-Sheohar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa

For the Opposite Party/s : Mr. Lallan Kumar (App)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

02/ 05-09-2018

Heard learned counsel for the petitioner and
the learned APP for the State.

The present application has been filed for
cancellation of provisional anticipatory bail granted to opposite
party no. 2 vide order dated 13.03.2013 passed in Cr. Misc. No.
6209 of 2013 in connection with Complaint Case No. 328 of 2011,
pending in the Court of learned SDJM, Pupri at Sitamarhi.

The factual matrix of the case is that the
opposite party no. 2 preferred Cr. Misc. No. 6209 of 2013 with a
prayer for anticipatory bail in a complaint case wherein process
were directed to be issued after cognizance being taken for the



offence under Section 498A of the Indian Penal Code.

The basic accusation is of torture.

On submission on behalf of opposite party no. 2 that he is ready to keep the complainant as wife with full dignity and honour, opposite party no. 2 was granted provisional anticipatory bail for one year vide order dated 13.03.2013 passed in Cr. Misc. No. 6209 of 2013. The learned Court below was supposed to issue notice to the complainant for her appearance before the learned Court below and on her appearance before learned Court below the opposite party no. 2 was supposed to the complainant to her matrimonial house to keep her as wife with full dignity and honour. The provisional anticipatory bail was supposed to be confirmed by the learned Court below within one year on substantial restoration of the matrimonial harmony or if the complainant deliberately refuses to reside with the petitioner.

It is submitted by learned counsel for the petitioner that the provisional anticipatory bail has never been confirmed by the learned Court below.

In view of the fact that the period of provisional anticipatory bail granted to the petitioner got lapsed on 12.03.2014 and the present cancellation application has been registered on 21.01.2015, the present cancellation application is



not maintainable. There is nothing on record to suggest that the provisional anticipatory bail of opposite party no. 2 has been confirmed. Moreover, since the period of provisional anticipatory bail got lapsed on 12.03.2014 the opposite party no. 2 no longer remained on provisional anticipatory bail. Hence, it is expected from the learned Court below to pass appropriate order for the appearance of opposite party no. 2.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J)

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