

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26458 of 2017

Arising Out of PS.Case No. -674 Year- 2015 Thana -NALANDA COMPLAINT CASE District-
NALANDA (BIHARSHARIFF)

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Mantu Devi, W/o Ram Pravesh Prasad, D/o Late Muneshwar Prasad,
resident of Village Banarasi Bigha, P.S. Islampur, District- Nalanda, at
present R/o Village- Chandanpura, Police Station- Islampur, District-
Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ram Pravesh Prasad, S/o Kapil Prasad, resident of Village- Banarasi
Bigha, Police Station- Islampur, District- Nalanda.

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Ajay Mukherjee, Advocate
For the State : Mr. Sri Sanjay Kumar Tiwary 1, APP
For O.P. No. 2 : Mr. Shyamal Prakash, Advocate

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

05/ 26-09-2018

Heard learned counsel for the petitioner

learned APP for the State and learned counsel for the opposite
party no. 2.

The present application has been filed for
cancellation of provisional anticipatory bail of opposite party no.
2, Ram Pravesh Prasad, who being the husband of the
complainant, was granted provisional anticipatory bail for six
months vide order dated 11.08.2016 passed in Cr. Misc. No.



34251 of 2016.

The opposite party no. 2 preferred the aforesaid application with a prayer for anticipatory bail in connection with Complaint Case No. 674C of 2015, wherein processes were directed to be issued after cognizance being taken for the offences punishable under Sections 341, 323, 498A and 504/34 of the Indian Penal Code, pending in the Court of learned ACJM, Hilsa (Nalanda).

On submission made on behalf of the opposite party no. 2 and statement made in paragraph 12 of the main petition that he is ready to keep the complainant-petitioner with full dignity and honour, the opposite party no. 2 was granted provisional anticipatory bail for six months. The learned Court below was supposed to issue notice to the complainant and on her appearance the opposite party no. 2 was to take the complainant to her matrimonial home to keep her as wife with full dignity and honour. The provisional anticipatory bail of the opposite party no. 2 was to be confirmed by the learned Court below 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.



It is submitted by learned counsel for the petitioner that in pursuance to the order the opposite party no. 2 took the petitioner to the matrimonial house and after some time she was being tortured and driven out from the house. It is further submitted that the provisional anticipatory bail has never been confirmed but the learned Court below contrary to the order of this Court has extended the period of provisional bail of the opposite party no. 2.

Learned counsel for the opposite party no. 2 submits that the provisional bail was granted for six months vide order dated 11.08.2016 and the said period of six months has already been expired on 10.02.2017 whereas the present cancellation application has been registered on 30.05.2017 and hence, the present cancellation application is not maintainable.

Considering the rival submissions of the parties, I find substance in the submission of the learned counsel for the opposite party no. 2 that the provisional anticipatory bail of the opposite party no. 2 has not been confirmed, the provisional anticipatory bail was granted for six months and that the said period has already been expired, hence, the opposite party no. 2 is not longer on bail, as a result, the present cancellation application is not maintainable.



Accordingly, the present application is dismissed.

It is expected from the learned Court below to pass an appropriate order for appearance of opposite party no. 2.

(Dinesh Kumar Singh, J)

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