

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.56432 of 2017

Arising Out of PS. Case No.-1607 Year-2011 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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Mumtaj Nesa @ Mumtaj Begum @ Mumtaj Nisha, W/o Razid Alam,
Resident of Village- Gauri Sriram Bedauli Tola-Ghoghalwa, P.S. Bishunpura,
District- Kushi Nagar (U.P.), Presently residing at C/o Salamat, Village-
Tirvirwa, P.S. Gopalganj, District- Gopalganj (Bihar).

... .. Petitioner/s

Versus

1. State Of Bihar.
2. Rozid Alam, S/o Rajjak Mian, Resident of Village- Gauri Sriram Bedauli,
Ghoghmalwa Tola, P.O. Dudhahi, P.S. Bishunpur, District- Kushi Nagar
(U.P.)

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Sharan Singh
For the Opposite Party/s : Mr. Sri Manoj Kumar - 1

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 18-07-2018 The petitioner/wife has sought cancellation of anticipatory bail of opposite party no. 2, which was granted by this Court vide order dated 08.05.2012 passed in Criminal Misc. No. 16955 of 2012, which provisional bail was later confirmed by the court below.

It has been submitted on behalf of the petitioner/wife that provisional anticipatory bail was granted to opposite party no. 2 with a direction that the same would be confirmed by the court below only if the matrimonial harmony is substantially restored or if the complainant deliberately refuses to reside with the petitioner. It has been submitted on behalf of the



petitioner/wife that on false statement by the opposite party no. 2 that the matrimonial relationship has been restored, his provisional anticipatory bail was confirmed.

Learned counsel for the petitioner/wife has submitted that during the subsistence of her marriage with opposite party no. 2, he has married another lady and therefore it can safely be concluded that at the time of grant of provisional anticipatory bail and the confirmation of the same, the opposite party no. 2 did not have any intention to restore the matrimonial relationship. Thus, the petitioner would not be wrong in stating that a wrong statement was made by the opposite no. 2 before the High court as also before the court below which later confirmed the provisional anticipatory bail granted to him by this Court.

Learned advocate who has appeared for opposite no. 2 though has filed his response to the petition but has not denied the assertion of the petitioner that he has married again during the subsistence of his marriage with the first wife/petitioner.

Taking this fact into account only, the anticipatory bail granted to the petitioner is hereby cancelled.

If the petitioner surrenders before the court below and seeks bail, that shall be considered on its own



merits, without being prejudiced by the fact that his anticipatory bail has been cancelled by this Court.

The petitioner ought to surrender before the court below within a period of four weeks, failing which the court below shall take all coercive steps to compel the petitioner to surrender to the process of law.

The application stands allowed.

(Ashutosh Kumar, J)

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