

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39812 of 2015

Arising Out of PS.Case No. -861 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

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Sarita Devi, wife of Sri Sunil Kumar Verma @ Sunil Verma, daughter of
Ramnaran Verma, resident of Village- Ajwan, Police Station- Naubatpur,
District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sunil Kumar Verma, son of Bipat Mahto, resident of Village- Khandiha,
Post Office- Nisarpura, Police Station- Manglichak Parsa, District-
Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Madan Jeet Kumar

For the Opposite Party/s : Mr. A.Dayal(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 24.01.2013 passed in Cr. Misc. No.
48407 of 2012 in connection with Complaint Case No. 861C of
2011, pending in the Court of learned Additional Chief Judicial
Magistrate, Danapur, Patna.

The factual matrix of the case is that the
opposite party no. 2 preferred Cr. Misc. No. 48407 of 2012 with a
prayer for anticipatory bail in a complaint case wherein process



were directed to be issued after cognizance being taken for the offences punishable under Sections 498A and 323 of the Indian Penal Code.

The basic accusation is of torture.

On submission of learned counsel for opposite party no. 2 that the matrimonial suit for divorce was filed on 15.02.2011 when the substituted service of notice was made on 24.06.2011 and thereafter the complaint was filed on 08.09.2012. However, it was submitted that opposite party no. 2 is ready to make efforts for reconciliation, and opposite party no. 2 was granted provisional anticipatory bail for one year vide order dated 24.01.2013 passed in Cr. Misc. No. 48407 of 2012. The learned Court below was supposed to issue notice to the complainant for her appearance and on her appearance before learned Court below the opposite party no. 2 was supposed to take 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 if the matrimonial harmony is substantially restored or if the complainant-petitioner deliberately refuses to reside with the petitioner-opposite party no. 2 or if the complainant-petitioner fails to appear before the learned Court below.



It is submitted by learned counsel for the petitioner that the provisional 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 23.01.2014 and the present cancellation application has been registered on 21.08.2015, the present cancellation application is not maintainable. There is nothing on record to suggest that the provisional bail of opposite party no. 2 has been confirmed. Moreover, since the period of provisional bail got lapsed on 23.01.2014 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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