

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47467 of 2014

Arising Out of PS.Case No. -927 Year- 2009 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

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1. Jitendra Kushwaha @ Jitendra Kumar Kushwaha son of Singasan Kushwaha,
Resident of Village- Mathia Mafi, P.S.- Bishunpura, District- Kushi Nagar
(U.P.)

.... Petitioner/s

Versus

1. The State of Bihar
2. Jyoti Devi wife of Jitenra Kumar Kushwaha, daughter of Rudra Narayan Singh,
Resident of Village- Rampur, P.S.- Kateya, District- Gopalganj

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Md. Javed Alam, Advocate

For the Opposite Party/s : Mr. Shyam Kumar Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 02-05-2018

This is an application under section 482 of the Code of Criminal Procedure against the order of cancellation of bail of the petitioner by the learned Court below.

2. The petitioner was allowed provisional Anticipatory Bail in connection with complaint case number 927 of 2009, a case under section 498A of Indian Penal Code by this court in Cr. Misc. No. 38645 of 2011 by order dated 17.04.2012 vide annexure 2. The last paragraph of the order aforesaid is being reproduced below:

“Under the facts and circumstances, the Sub-divisional Judicial Magistrate, Gopalganj, shall call upon the complainant and being satisfied that the petitioner shall keep the complainant at his place of posting shall release the petitioner on interim bail for



three months on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the S.D.J.M., Gopalganj in connection with complaint case number 927 of 2009 trial number 2477 of 2010, subject to condition as laid down under section 438 (2) of Cr.P.C. and further after three months being satisfied that petitioner has kept the complainant during the period with due dignity shall confirm the bail bond with condition that petitioner will keep the complainant with due dignity. However, if the petitioner violates the condition then the trial court shall proceed for cancellation bail.”

3. The impugned order dated 18.07.2014 reveals that the petitioner appeared before the court below in pursuance of the aforesaid order after one year on 01.05.2013. The court below granted provisional bail till 01.08.2013. In the meantime, petitioner did not comply the conditions of the order of this Court. Hence, the court below cancelled the bail bond of the petitioner after rejecting the show cause against cancellation of bail filed by the petitioner. The applications filed by the petitioner and the Complainant-Opposite Party No. 2 before the court-below would reveal that there is allegation and counter allegation.

4. Since, the court below was empowered to cancel the provisional bail on non- fulfillment of the conditions of provisional bail granted by this court as well as the court below was empowered



to cancel the bail if the petitioner violates the conditions, this court is not inclined to interfere with the impugned order in exercise of power under section 482 of the Code of Criminal Procedure.

5. Accordingly, this application stands dismissed. However, the petition would be at liberty to approach the appropriate forum under appropriate jurisdiction.

(Birendra Kumar, J)

Mkr./Sanjeev

AFR/NAFR	NAFR
CAV DATE	NA
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