

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 6289 of 2015**

Arising Out of Complaint Case No.-2043 Year-2011 Thana- GAYA COMPLAINT CASE
District- Gaya

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Vibhishan Sharma @ Praveen Sharma, Son of Sri Umesh Sharma, Resident of
Village - Daibigha, P.S. - Narhat, in the district of Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Smt. Punam Devi, Wife of Vibhishan Sharma @ Praveen Sharma, Daughter
of Sri Rajendra Sharma, presently residing with her father in Village -
Gajhandi, P.S. - Fatehpur, in the district of Gaya.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Akhileshwar Prasad Singh, Mr. Bimal Kumar and Mr. Surendra Prasad singh, Advocates
For the State	:	Mr. Md. Arif, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 01-04-2019

Heard Mr. Akhileshwar Pd. Singh, learned senior
counsel along with Mr. Bimal Kumar, learned counsel for the
petitioner and learned A.P.P. for the State.

2. The petitioner has moved the Court under Section
482 of the Code of Criminal Procedure, 1973 for the following
relief:

*“That this is an application for
quashing the order dated 27.10.2014 passed by
Sub Divisional Judicial Magistrate, Gaya, in
Complaint Case No. 2043 of 2011 by which bail
granted to the petitioner under order dated
13.9.2012 passed by Sub Divisional Judicial
Magistrate, Gaya in compliance to the order*



dated 4.9.2012 passed by Sessions Judge, Gaya in A.B.P. No. 1215/2012 granting anticipatory bail to the petitioner, has been cancelled.”

3. The petitioner had moved the Sessions Judge, Gaya seeking anticipatory bail in Complaint Case No. 2043 of 2011. By order dated 04.09.2012, in A.B.P. No. 1215 of 2012, the Sessions Judge, Gaya had granted anticipatory bail to the petitioner, who is the husband of the opposite party no. 2, on the condition that he would give an undertaking with an affidavit that he shall keep the wife with full dignity and honour, failing which it was directed that the bail bonds would automatically be cancelled.

4. The Court below thereafter enlarged the petitioner on bail in terms of the order. However, a petition was filed by the opposite party no. 2, alleging that instead of taking her with him, she and her children were assaulted by the accused. After hearing the parties, the Court below by order dated 27.10.2014 had cancelled the bail bonds of the petitioner on the ground that there has been violation of the terms of the Sessions Judge. He has also drawn adverse inference against the petitioner on the ground that if his defence that it was the opposite party no. 2 who did not come to him was true, then it was incumbent upon him to inform the Court of such development, which had not been done and only when the opposite party no. 2 had filed a petition alleging non



compliance of the terms of the order after one year, the defence was taken that it was the opposite party no. 2, who had not come to the matrimonial home.

5. After some arguments, learned counsel for the petitioner submitted that the application be disposed off with liberty to the petitioner to move before the Court below itself making fresh prayer for bail.

6. Learned A.P.P. does not oppose.

7. In view thereof, the application stands disposed off with liberty aforesaid.

8. It goes without saying that if such an application is filed before the Court below, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

P. Kumar

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