

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 3571 of 2015**

Arising Out of P.S. Case No.-8 Year-2014 Thana- MAHILA P.S. District- Sitamarhi

Shivendu Bhushan Jha @ Kanchan Jha, Son of Pitambar Jha, Resident of Village - Marpa, P.S. - Kanhauli, District Sitamarhi. At present Resident of Kamla Garden, Sitamarhi, P.S. & District - Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Pushpanjali Devi @ Pushpanjali Jha @ Guriya, Daughter of Sri Deo Chandra Jha, Resident of Village -Morsand, P.S. - Runnisaidpur, District - Sitamarhi.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Surendra Kishore Thakur and Mr. Subodh Kumar, Advocates
For the Opposite Party/s	:	Mr. Ashok Kumar Jha, Advocate
For the State	:	Mr. Ram Bachan Singh, APP

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

ORAL JUDGMENT

Date : 03-05-2019

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

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

“That this criminal Misc. application is directed against the order dated 14.11.2014 passed in B.P. No. 622/2014 whereby and where under the 1st Additional District & Sessions Judge, Sitamarhi has cancelled the provisional bail granted to the petitioner only on the ground that the compromise could not be arrived between the parties without considering that once the petitioner has been



granted bail cannot be cancelled unless the condition laid down under section 437 of the Cr.P.C. is found and without considering that the verdict of the Supreme Court that due to none fulfillment of condition of compromise bail once granted to the parties cannot be cancelled.”

3. The petitioner being accused in Mahila PS Case No. 8 of 2014 had moved the Court below seeking bail in which initially by order dated 19.06.2014, provisional bail was granted to him with certain conditions. Thereafter, from time to time the period of provisional bail was extended and finally by order dated 14.11.2014, the Court cancelled the provisional bail and the bail petition was also rejected with a further direction to the petitioner to surrender before the Court below forthwith. Challenge to the same is in the present application in which by order dated 07.05.2015, the operation of the order dated 14.11.2014 passed by the Court below has been stayed.

4. The petitioner and the opposite party no. 2 are husband and wife. There are allegations and counter allegations against each other. The Court, thus was of the view that the matter is required to be considered on the basis of materials available.

5. At this juncture, learned counsel for the petitioner submitted that he is ready to pay the interim maintenance and no useful purpose would be served by him being incarcerated as he may not be able to earn to pay any amount to the opposite party



no. 2. On the query of the Court to learned counsel for the opposite party no. 2 with regard to his stand on such request, he also agreed that the petitioner being in prison would not be of any use to the opposite party no. 2 for she requires money for her subsistence. However, he submitted that the earlier amount of Rs. 3,000/- per month, as was fixed by the Court below in its order dated 19.06.2014, is not adequate and the petitioner should enhance the same.

6. On such stand taken by learned counsel for the opposite party no. 2, learned counsel for the petitioner submitted that he is agreeable to pay Rs. 4,000/- per month by way of maintenance to the opposite party no. 2. The Court finds such stand to be fair and reasonable.

7. Accordingly, for securing the ends of justice, the Court finds that a case for exercising its inherent power under Section 482 of the Code has been made out.

8. Accordingly, the application stands disposed off in the following terms:

(a) The bail granted to the petitioner in Sitamarahi Mahila PS Case No. 8 of 2014 stands confirmed on the same terms on which the bail was granted by the Court below by order



dated 19.06.2014, subject to the condition that the petitioner shall pay Rs. 4,000/- per month computed from 19.06.2014.

(b) With immediate effect, such amount shall be paid from month to month latest by the 5th of the following month, to be credited directly into the account of the opposite party no. 2 by the petitioner. Such account number shall be furnished by the opposite party no. 2 to the petitioner before the Court below.

(c) With regard to arrears till April, 2019 from 19.06.2014, the amount shall be computed and the amount which has already be paid by the petitioner shall be deducted. The total amount shall then be paid in installments by the petitioner over the next six months, as per his convenience, but it is made clear that the entire arrears shall also be cleared latest by 31st of October, 2019.

9. It is made clear that any violation of the aforementioned terms shall lead to automatic cancellation of the bail granted t to the petitioner and he should be taken into custody.

(Ahsanuddin Amanullah, J.)

P. Kumar

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