

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.582 of 2017

Arising Out of PS. Case No.-2 Year-2015 Thana- MAHILA P.S. District- Kaimur (Bhabua)

Nirmla Devi @ Kamla Devi, Wife of Tarkeshwar Tiwari, Daughter of Jokhan Pandey, Resident of Village – Parsia, P.S. - Bhabua, District – Kaimur at present of village Purushatampur, P.S. - Chainpur, District – Kaimur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Tarkeshwar Tiwari, Son of Triveni Tiwari, Resident of Village – Parsia, P.S. - Bhabua, District – Kaimur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Pandey
For the Opposite Party/s : Mrs.Smt Indu Kumari Srivastava

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 05-02-2020 Heard learned counsel for the informant-petitioner, learned counsel for the State and learned counsel for the opposite party no. 2.

The present application has been filed for cancellation of anticipatory bail of opposite party no. 2, granted vide order dated 28.07.2015 passed in Cr. Misc. No. 11587 of 2015.

The factual matrix of the case is that the opposite party no. 2, being the husband of the informant-petitioner, preferred Cr. Misc. No. 11587 of 2015 with a prayer for anticipatory bail in Bhabua Mahila P.S. Case No. 02 of 2015, registered for the offences punishable under Sections 323, 342,



498A and 307/34 of the Indian Penal Code.

The basic accusation is of torture and making assault.

Considering the fact that the marriage between the parties was not in dispute and both sides agreed to reside together, the opposite party no. 2 was granted anticipatory bail with the condition that both sides agreed to appear before the learned Court below on 10th of August, 2015 when opposite party no. 2 will take the informant to keep her as wife with full dignity and honour. This is not in dispute that the informant-petitioner went to the matrimonial house and resided for sometime but thereafter, the torture was inflicted upon her and she was driven out from the matrimonial house. It appears that the informant-petitioner filed a complaint for the charges under the Domestic Violence Act being, Complaint Case No. 365 of 2018, wherein stand was taken by the informant-petitioner that she was driven out from the matrimonial house and considering the same, learned Court below directed opposite party no. 2 to pay Rs.1,500/- per month as interim maintenance. This is not in dispute that the informant-petitioner is getting interim maintenance amount.

In the circumstances, being satisfied with the contentions raised by learned counsel for the opposite party no.



2 that subsequent to the order, the informant-petitioner chose to take maintenance amount and has not challenged the said order and considering the fact that the parameters for grant of bail and its cancellation are quite different. No doubt, it is well settled that bail can be cancelled in case;

(i) the accused misuses his liberty by indulging in similar criminal activity,

(ii) interferes with the course of investigation,

(iii) attempts to tamper with evidence or witness,

(iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation,

(v) there is likelihood of his fleeing to another country,

(vi) attempts to make himself scene by going underground is becoming unavailable to the investigating agency,

(vii) attempts to place himself beyond the reach of his surety etc. as has been held in the case of Mehboob Dawood Shaikh Vs State of Maharashtra, reported in (2004) 2 SCC 362.

In view of the discussions made above and the fact that the informant-petitioner chose to take maintenance in order passed in domestic violence case after three years of the grant of



anticipatory bail, this Court is not inclined to interfere.
Accordingly, the present application filed for cancellation of
anticipatory bail of opposite party no. 2 is dismissed.

(Dinesh Kumar Singh, J)

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