

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23984 of 2018

Arising Out of PS. Case No.-1135 Year-2013 Thana- JEHANABAD COMPLAINT CASE
District- Jehanabad

=====

Shamima @ Shamima Khatoon W/o Md. Wasim @ Md. Wasim Alam, D/o Md. Mansur Alam, Resident of Mohalla- Nawadih, P.O.P.S.District- Aurangabad, at present resident of Mohalla- Shekhalamchak, P.O.P.S.District- Jehanabad.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Md. Wasim @ Md. Wasim Alam, S/o Late Fazal Haque, Resident of Building No. L-207, G/F/B/P Gali No.7, Sangam Bihar, P.S.- Sangam

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Ravindra Kumar Sinha
For the Opposite Party/s : Mr.Sri Anuj Kumar Srivastava

=====

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 18-02-2020 Heard the parties.

This application has been filed for cancellation of bail granted to O.P.no.2 vide order dated 6.2.2018 passed by the learned Sessions Judge, Jehanabad in B.P.no.99 of 2018 .

Fact in short is that the case under Section 498A of the Indian Penal Code has been lodged by the petitioner against the O.P.no.2 with allegation of demand and torture and the O.P.no.2 came before this Court and a co-ordinate Bench of this Court vide order dated 16.12.2014 passed in Cr. Misc. No.44358 of 2014 has granted anticipatory bail on certain condition to the O.P.no.2, which is annexure 2. It further appears that O.P.no.2



has not complied the direction and later on it appears that the provisional bail has not been confirmed by the SDJM, vide order dated 15.1.2016 and the petitioner has again moved before a Co-ordinate Bench of this Court, who, vide order dated 17.1.2018 passed in Cr. Misc. No.15519 of 2017, disposed of the application with observation as follows : -

“Accordingly, this application is disposed of with liberty to the petitioner to surrender before the learned Court below within a period of six weeks from today when the learned Court below will consider the prayer for regular bail of the petitioner in connection with Complaint Case No.1135 of 2013 pending in the Court of learned Sub-divisional Judicial Magistrate, Jehanabad. It is expected from the learned Court below to consider the bail application of the petitioner preferably on the same day so that the trial may conclude.”

It further appears that the petitioner (O.P.no.2) vide order dated 6.2.2018 surrendered before the SDJM who rejected the prayer for regular bail of the petitioner (O.P.No.2) and later on O.P.no.2 moved before the Sessions Judge, Jehanabad in pursuance of order dated 6.2.2018 who considering the observation of the Hon’ble High Court as well as the period of the custody of the petitioner, has granted bail to the petitioner, which is under challenge in the present case.

Submission of the learned counsel for the petitioner



is that in spite of direction of this Court earlier in order dated 16.12.2014 passed in Cr. Misc. No.44358 of 2014, O.P.no.2 was not ready to keep the petitioner and as such his provisional bail was cancelled but without considering the same, the learned Sessions Judge has granted bail to the petitioner, vide impugned order, which is against the spirit of the order passed by the then Hon'ble Court.

Heard learned APP and perused the order dated 6.2.2018 from which it appears that the learned Sessions Judge has granted regular bail to the petitioner considering the custody of the petitioner and there is no allegation of misuse of the privilege of the bail or tampering with the evidence or any chance of absconding the petitioner.

Considering the above, I am not inclined to interfere with the order passed by the learned Sessions Judge.

Accordingly, this application is dismissed.

(Vinod Kumar Sinha, J)

chn/-

U		T	
---	--	---	--

