

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21029 of 2021**

Arising Out of PS. Case No.-731 Year-2018 Thana- KATIHAR COMPLAINT CASE
District- Katihar

SAIDUR RAHMAN, SON OF JUHOOR ALAM @ JUHUR RAHMAN, R/O
JAMIRA, P.S.- BARSOI, DISTT.- KATIHAR

... .. Petitioner/s

Versus

1. The State of Bihar
2. SAMSUN NIHAR, W/O SAIDUR RAHMAN, D/O KALAMUDDIN R/O-
ANANTPUR, P.O.- BITIYAR, P.S.- RAIGANJ, DISTT.- UTTAR
DINALJPUR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Sanjeev Kumar Singh, Adv.
For the Opposite Party/s	:	Mr.Md. Fahimuddin, APP
For the Informant	:	Mr.Praveen Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

8 22-12-2021 Heard learned counsel for the petitioner, learned
counsel for the informant and Mr. Md. Fahimuddin, learned APP
for the State.

Petitioner in the present case has been granted
provisional bail vide order dated 06.08.2021 after taking note of
the submissions advanced on behalf of the petitioner that he is
ready and willing to keep the complainant with him as his
lawfully wedded wife at Mumbai where he is presently working
as a tailor. He had also undertaken to keep the children and to
take full care of the complainant and the children.

A perusal of the order dated 06.08.2021 would show



that before his going into judicial custody after his arrest in connection with this case, this Court had granted him privilege of anticipatory bail in Cr.Misc.No.9315 of 2019 after recording his similar kind of statement that he was ready to keep the complainant and the children with him with full dignity and care. At that time, this Court had directed him to appear before the learned court below on 07.08.2019 and then subject to the conditions mentioned in the order of this Court the petitioner was required to be allowed provisional bail for a period of three months and his conduct was to be watched before confirmation of the provisional bail. The petitioner did not abide by the order of this Court in Cr.Misc.No.9315 of 2019, since he did not appear in the learned court below warrant of arrest was issued against him and later on he was taken into custody whereafter this Court granted him provisional bail again taking note of his undertakings.

After his release on provisional bail once again the petitioner has indulged in hide and seek which will be evident from the orders passed by this Court on the previous dates. On 04.10.2021, this Court having perused the orders dated 18.08.2021, 02.09.2021 and 22.09.2021 passed by the learned Additional Chief Judicial Magistrate-1st Court, Katihar gave an



opportunity to the petitioner again to be present in Court to receive the opposite party no.2 and the minor children for taking them to the matrimonial home. Later on, this Court granted another indulgence to the petitioner vide order dated 27.10.2021 to ensure that he abide by his assurance given before this Court. By yet another order dated 03.11.2021, this Court granted an indulgence to the petitioner whereunder the petitioner and the complainant both had to appear in the learned court below on 15.11.2021 from there the petitioner had to take the complainant and the two children to his matrimonial home and then they had to proceed for Mumbai on 18.11.2021.

As it appears now in terms of the order dated 03.11.2021, the petitioner as well as the complainant appeared in the learned court below. The complainant expressed her desire to live with her husband (the petitioner) and the petitioner also shown his desire to receive the complainant and the two children and to take them to his matrimonial home. These facts are recorded in the order dated 15.11.2021.

Learned counsel for the complainant submits that in fact the petitioner instead of taking the complainant and the two children to his matrimonial home, left them immediately after coming out of the court premises and shirked his responsibility



to keep them in his matrimonial home for two days and then to take them to Mumbai. On 08.12.2021, the petitioner filed an application in the learned court below in which he made a false statement that he was directed by the Court to take his wife and the children from Barsoi station on 18.11.2021.

Learned counsel submits that the application dated 08.12.2021 filed in the learned court below was only to get rid of the consequences which the petitioner was likely to suffer due to his breach of own undertaking given before this Court and taking privilege of bail on a false pretext. The petitioner made a completely false statement that the Court had directed him to take the complainant and the children from Barsoi station on 18.11.2021. The fact is that the petitioner had undertaken before the learned court below in terms of the order of this Court and gave an impression that he was taken the complainant and the children to his matrimonial home on 15.11.2021. Learned counsel, thus, submits that the petitioner has obtained provisional bail by playing a fraud upon the Court in giving assurances which he had never intended to abide by.

Mr. Sanjeev Kumar Singh, learned counsel for the petitioner submits that in fact the complainant is not ready to go with the petitioner and the petitioner has recorded this conversation



over mobile phone. Learned counsel is, however, completely unable to explain as to why and under what circumstances after receiving the complainant and the two children in the court premises on 15.11.2021 the petitioner did not take them to his matrimonial home. If it is his stand that the complainant did not agree to go with the petitioner, this Court would not readily believe such stand of the petitioner for two reasons, firstly that had it been such intention of the complainant she would not have appeared in the court on 15.11.2021 fully prepared to accompany the petitioner and secondly if the complainant had denied going with the petitioner then why such fact was not brought to the notice of the learned court below immediately either on the same day or on the next day. This Court has reasons to believe that the conduct of the petitioner does not speak well with regard to his assurances given in the Court.

This Court is, therefore, of the considered opinion that the petitioner has obtained provisional bail by making a submission which he never intended to abide by. For this conduct, this Court thinks it just and proper not to confirm the provisional bail granted to the petitioner. The provisional bail granted to the petitioner is, thus, not confirmed.

The petitioner shall surrender in the learned court



below within one week from today, failing which the learned court below shall take coercive action against him to secure arrest of the petitioner.

This application is dismissed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

