

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59490 of 2021**

**In
CRIMINAL MISCELLANEOUS No.27524 of 2020**

Arising Out of PS. Case No.-357 Year-2018 Thana- JEHANABAD COMPLAINT CASE
District- Jehanabad

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Ankaj Kumar, S/O Kamlesh Prasad Chandravanshi, R/O Village- Shekhpura,
P.S.- Goh, District- Aurangabad.

... .. Petitioner

Versus

The State of Bihar.

... .. Opposite Party

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with
CRIMINAL MISCELLANEOUS No. 2980 of 2022

Arising Out of PS. Case No.-357 Year-2018 Thana- JEHANABAD COMPLAINT CASE
District- Jehanabad

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As per direction of Hon'ble Courts order dt. 12.01.2022 passed in Cr.Misc.
No.-59490/2021 Bihar.

... .. Petitioner

Versus

Ankaj Kumar, Son of Kamlesh Prasad Chandravanshi, R/o Village -
Shekhpura, P.S. - Goh, District - Aurangabad.

... .. Opposite Party

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 59490 of 2021)

For the Petitioner/s : Mr.Yogendra Kumar Dwivedi, Advocate

For the Opposite Party/s : Mr.Uma Shankar Prasad Singh, APP

(In CRIMINAL MISCELLANEOUS No. 2980 of 2022)

For the Petitioner/s : Mr.Uma Shankar Prasad Singh, APP

For the Opposite Party/s : Mr. Yogendra Kumar Dwivedi, Advocate

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

9 18-05-2022 Heard learned counsel for the petitioner and Mr. Uma
Shankar Prasad Singh, learned A.P.P. for the State.

Cr. Misc. No. 59490 of 2021 has been filed by the
petitioner seeking modification of the order dated 15.01.2021



passed in Cr. Misc. No. 27524 of 2020 in connection with Complaint Case No. 357 of 2018 registered for the offence punishable under Sections 323 & 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

During hearing of the said application, this Court passed the following order on 12.01.2022:-

“Perused the show cause filed on behalf of the petitioner.

In view of the prima-facie opinion expressed by this Court in its order dated 08.12.2021 saying that the petitioner is not entitled to continue on the pre-arrest bail and it is one of those cases in which this Court feels its bounden duty to exercise its inherent power to consider cancelling the bail bond of the petitioner, this Court directs registration of a suo moto petition by the Registry of this Court and list the same together with this case on 02.02.2022.

Mr. Uma Shankar Prasad Singh, learned APP for the State is present.”

Cr. Misc. No. 2980 of 2022 is the suo motu application which has been registered for cancellation of bail granted to the petitioner in Cr. Misc. No. 27524 of 2020. Order dated 15.01.2021 passed in Cr. Misc. No. 27524 of 2020 specifically incorporates that learned counsel for the petitioner had submitted on instruction from the petitioner as regards payment of Rs. 2,500/- per month to



his wife-informant. The said submission made before this Court has not been abide by the petitioner. He has not paid a single farthing to his wife and has enjoyed the privilege of pre-arrest bail.

Learned counsel for the petitioner submits that he has filed a show cause and the crux of his submission is that the petitioner is unemployed and earns Rs. 300/- per day only. His mother was a cancer patient and he had spent heavy amount on her treatment but ultimately she died on 19.12.2021.

Learned counsel for the petitioner submits that because of his inadequate income the petitioner has not abide by the instruction which was given to learned counsel and he has not paid the given amount to his wife.

Mr. Uma Shankar Prasad Singh, learned A.P.P. for the State has submitted that it is totally unfair on the part of the petitioner to obtain the privilege of pre-arrest bail by offering that he would pay a sum of Rs. 2,500/- per month to opposite party no. 2 and then not abiding by the same on the pretext of treatment of his mother. While giving instruction to his lawyer earlier he was fully aware of his capacity to pay and the circumstances which he is now narrating to escape the compliance. His conduct is nothing but playing a fraud upon the court.

Learned A.P.P. submits that even as per his show cause he earns at least Rs. 300/- per day, therefore, he is in a position to



pay a sum of Rs. 2,500/- per month to his wife to meet her expenses. It is submitted that the petitioner cannot be allowed to enjoy the privilege of pre-arrest bail by playing fraud upon the Court and his bail bond is required to be cancelled.

In the given facts and circumstances of the case, this Court finds substance in the submission of learned A.P.P. for the State. The records would reveal that this Court passed the order dated 15.01.2021 in presence of the parties. The order dated 15.01.2021 is being reproduced hereunder:-

“Heard learned counsel for the petitioner and learned APP for the State.

The petitioner in the present case is seeking pre-arrest bail in connection with Complaint Case No. 357 of 2018 registered for the offences punishable under Sections 323 & 498(A) of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

It is the agreed view between the parties that they will be seeking resolution of dispute before the mediation centre attached to the learned court below for purpose of entering into one time settlement. Learned counsel for O.P. No. 2 is not opposing the prayer for anticipatory bail of the petitioner.

Learned counsel for the petitioner has submitted on instruction from the petitioner that till such settlement



takes place either amicably or in accordance with law, subject to any order which may be passed in an appropriate proceeding by the competent court of law, the petitioner shall pay a sum of Rs.2500/- per month to O.P. No. 2. Such payment will be made to O.P. No. 2 within first seven days of every month either by way of transfer in her account electronically or by depositing bank draft or cash, as the case may be, in the learned court below which will be allowed to be withdrawn by O.P. No. 2 forthwith.

In the aforesaid view of the matter, let the petitioner above-named in the event of his arrest or surrender within a period of four weeks from today in connection with Complaint Case No. 357 of 2018 be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of Shri Madhwendra Singh, Sub-Divisional Judicial Magistrate, Arwal, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any



inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

And further condition that in terms of his own statement, the petitioner shall pay a sum of Rs.2500/- (Twenty Five Hundred Only/-) per month to O.P. No. 2 within the stipulated period and subject to result of an appropriate proceeding before a competent court of law, failing which the O.P. No. 2 shall take steps for cancellation of bail of the petitioner.

The application is disposed of accordingly.”

In the aforesaid order, it is specifically recorded that both the parties had agreed to resolve their disputes before the Mediation Centre attached to the learned court below for purpose of entering into one time settlement and till such settlement takes place the petitioner had agreed that he will pay a sum of Rs. 2,500/- per month to opposite party no. 2. Apparently, the petitioner has misled not only opposite party no. 2 but this Court also in passing of the order dated 15.01.2021 because he never paid a single farthing to opposite party no. 2 after the said order was passed. The fact that he is earning Rs. 300/- per day is



admitted in his show cause. This Court had given him repeated opportunity and the last one is contained in the order dated 02.01.2022 wherein this Court had while giving opportunity to the petitioner to file his show cause left it open for him to comply with his undertaking in terms of the order dated 15.01.2021 passed in Cr. Misc. No. 27524 of 2020.

Today, once again learned counsel for the petitioner has submitted that the petitioner has not paid any amount to opposite party no. 2 and he has no intention to comply with the order of this Court.

In view of above, this Court is of the considered opinion that the application seeking modification of the order dated 15.01.2021 is totally misconceived and is an attempt to get rid of the understanding reached between the petitioner and opposite party no. 2 on 15.01.2021. The very basis of passing of the order dated 15.01.2021 was the said understanding because of which the opposite party no. 2 had not opposed the application. Cr. Misc. No. 59490 of 2021 is liable to be dismissed and is dismissed accordingly.

In the given circumstances, for the reason that the petitioner has obtained the order dated 15.01.2021 by misleading this Court, this Court, hereby, cancels the bail granted to the petitioner. His bail bond is cancelled. He is directed to surrender



within a period of one week from today, failing which learned court below shall take appropriate steps for his appearance in court.

The Cr. Misc. No. 2980 of 2022 stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

vats/-

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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'.

