

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 35075 of 2022**

Arising Out of PS. Case No.-14 Year-2019 Thana- MAHILA PS District- Gopalganj

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MADHUBALA KUMARI D/O RAM SHANKAR PRASAD, W/O- UDAY
SAHNKAR JAISWAL R/O- VILL- KATAIYA, P.S.- KATAIYA, DIST.-
GOPALGANJ

... .. Petitioner/s

Versus

1. The State of Bihar
2. UDAY SHANKAR @ UDAY SHANKAR JAISWAL S/O- UMA
SHANKAR CHOUDHARY R/O- VILL- HANUMANT NAGAR, NEAR
BUS STAND, DURGA MANDIR, P.S.- TOWN, DIST.- ARARIA

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr Shashi Bhushan Kumar, Advocate
For the Opposite Party/s : Mr Ram Sevak Choudhary, APP

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

- 2 13-07-2022** Heard learned counsel for the petitioner and the State.
- This application has been filed for cancellation of the
provisional bail granted to Opposite Party No 2 under order
dated 30.01.2021 passed in Cr Misc No 8519 of 2020.
- In the said case, the instant petitioner, who is the
informant, was represented in the proceedings arising out of Cr
Misc No 8519 of 2020. When the instant petitioner and
Opposite Party No 2 (husband of the petitioner) had agreed that
the matter be disposed of to enable them to reconcile the issue,
the application was disposed of with the following order:



“Heard learned counsel for the petitioner and the learned counsel for the State, as also the learned counsel appearing for the informant.

Petitioner seeks anticipatory bail in Gopalganj (Mahila) PS Case No 14 of 2019 registered under Sections 341, 323, 498A, 406, 420, 307, 504 and 506/34 of the IPC.

Learned counsel for the petitioner submits that he is willing to reconcile the issue with his wife. Counsel for the petitioner submits that the petitioner will make all genuine efforts to reconcile the issue so that the reconciliation culminates in restoration of matrimonial harmony or one time settlement as may be agreed upon between the petitioner and the informant.

Learned counsel for the State and the learned counsel for the informant do not object to such proposal as long as amicable settlement is reached between the parties.

In view of the said submission, since terms of reconciliation has to be worked out, this Court would direct that if the petitioner surrenders in the Court below, i e the Court of SDJM, Gopalganj within a period of four weeks from today, in connection with Gopalganj (Mahila) PS Case No 14 of 2019, and submits an undertaking to this effect at the time of his surrender; the Court below, after issuing notice to Opposite Party No 2 (wife) will grant provisional bail to the petitioner. The parties would make attempt to work out an amicable resolution of the dispute and the matter would be reviewed by the Court below after three months. This Court makes it clear that if the issue is resolved amicably, the provisional bail granted to the petitioner should be confirmed. If the developments are, however otherwise, the Court below would be free to pass orders in exercise of



its judicial discretion, including cancellation of the provisional bail granted to the petitioner.

With the aforesaid observations, the application stands disposed of.”

Now, the instant application has been filed praying before this Court that the provisional bail be cancelled as if this Court has earlier allowed the final bail to the petitioner. From this Court's earlier order dated 30.01.2021, it is apparent that after allowing provisional bail, discretion of the Court below was left open to pass appropriate orders in case of any failure of reconciliation efforts, inter parties. There is no order of the Court below placed on record to arrive at a conclusion as to what happened there, and whether petitioner initiated any proceeding before the Court below for cancellation of bail.

In view of the aforesaid circumstances, this application is thoroughly misconceived.

If at all, the petitioner had any grievance, it was/is open to her to bring the same before the Court below. This Court, under order dated 30.01.2021 passed in Cr Misc No 8519 of 2020, has not, in any manner, limited or, in any manner, interfered with the trial Court's discretion to cancel the provisional bail granted by the same order. In fact, this Court has reiterated and recognized the judicial discretion of the Court below to pass any order/s in the matter in accordance with law.



This application is, accordingly, disposed of.

(Madhuresh Prasad, J)

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