

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60757 of 2017

In
CRIMINAL MISCELLANEOUS No.3907 of 2016

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Amit Singh @ Amit Kr. Singh Son of Sri Rajendra Singh Resident of Village-Monopali, P.S.-Shahajitpur, District-Saran.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Priyanka Kumari, Wife of mit Singh @ Amit Kr. Singh Resident of Village-Monopali, P.S.-Shahajitpur, District-Saran

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Anis Akhtar
For the Opposite Party/s : Mr. Dr. Kumar Uday Pratap

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

6 21-02-2022 The matter comes up before this court for modification of the order passed by this court.

In view of specific bar contained under section 362 of the Cr.P.C., learned counsel for the state submits that no modification can be done by this court to an order already passed. In view thereof, learned counsel submits that the modification application deserves to be dismissed.

Learned counsel for the petitioner submits that although the modification as such may not be maintainable in view of the provision under section 362 Cr.P.C. However, in view of the constitution Bench judgment passed by the Supreme



Court in the case of Sushila Agrawal Vs. State of NCT Delhi **2020(5) SC Page 1**, the anticipatory bail once granted shall continue to remain in force till the trial ends. In view thereof learned counsel submits that the petitioner ought to be treated as on anticipatory bail and his bail bonds could not have been cancelled.

In Sushila Agrawal Vs. The State of U.P., (supra)
Hon'ble Apex Court has held as under:-

“Therefore, considering the decision of the Constitution Bench of this Court in Gurbaksh Singh Sibbia and the relevant observation reproduced herein-above the decision of this Court in Siddharam Satlingappa Mhetre to the extent it takes the view that the life of the order under Section 438 CrPC cannot be curtailed is not a correct law in light of the observations made by the Constitution Bench in paras 42 and 43 in Gurbaksh Singh Sibbia. The decision of this Court in Salauddin Abdulsamad Shaikh which takes an extreme view that the order of “anticipatory bail” has to be necessarily limited in time-frame is also not a good law and is against and just contrary to the decision of this Court in Gurbaksh Singh Sibbia, which is a Constitution



Bench judgment.

In view of the above, the Supreme Court has answered in unequivocal terms that an anticipatory bail once granted by the Court cannot be treated to be a provisional nature and the same would continue till the trial ends.

In the circumstances, therefore, this court refrains from modifying the earlier order contained under Section 363 Cr.P.C.

In the present case, it is informed that since there were conditions mentioned in the provisional bail order passed by this court, which were not fulfilled by the petitioner, the bail bonds have already been cancelled on 31.10.2017 the petitioner would be free to challenge the said order if he so advised.

However, as of now, this court would not turn back the clock and revise the bail granted and revise the bail bonds.

The application is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

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