

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84111 of 2019

Arising Out of PS. Case No.-369 Year-2018 Thana- KATEYA District- Gopalganj

Nikita Jaiswal, D/o Suresh Prasad Jaiswal @ Suresh Jaiswal, Resident of
Village- Kateya, Ward No. 5, P.S.- Kateya, District- Gopalganj.

... .. Petitioner

Versus

1. The State of Bihar.
2. Anshu Jaiswal, S/o Sri Jai Chandra Jaiswal, Resident of Village- Jokwa,
P.S.- Patherwa, District- Kushinagar (U.P.).

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Lokesh Kumar Singh, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 13-10-2023 Heard learned counsel for the petitioner. No one appears for the opposite party no. 2. Mr. Akhileshwar Dayal, learned APP for the State is present.

2. This application has been filed seeking cancellation of the anticipatory bail granted to the opposite party no. 2- husband in Cr. Misc. No. 38867 of 2019 in connection with Kateya P.S. Case No. 369 of 2018 registered for the offences under Sections 498(A)/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

3. As per the prosecution story, on 23.01.2014, the informant was married with one Anshu Jaiswal (opposite party no. 2) and several articles were given as gifts with some cash. It is alleged that after some time, the in-laws of the informant



started demanding cash and Chinese dining table due to which she was subjected to cruelty. After panchayati, the informant returned to her sasural whereafter they again started demanding cash and other articles. On 25.09.2018, finally the informant was ousted from her matrimonial house.

4. Learned counsel for the petitioner-wife submits that the husband-opposite party no. 2 along with the co-accused moved this Court for grant of pre-arrest bail by filing Cr. Misc. No. 38867 of 2019. In this Court, the petitioners and the opposite party no.2-wife expressed their desire to resolve the issues amicably. The petitioner no. 1 who is opposite party no. 2 in the present case expressed his readiness to visit the house of the informant to take her back to her matrimonial home. After hearing learned counsel for the parties, this Court in its operative part of the order dated 20.09.2019 in Cr. Misc. No. 38867 of 2019 passed the following order:-

“Since the parties have expressed their desire to amicably resolve the issue and now the petitioner no. 1 is ready to visit the house of the informant/complainant-opposite party no. 2 to take her back to his matrimonial home and the opposite party no. 2 is also willing to live with the petitioner no. 1 with full dignity and care, with the consent of the parties the present application is being disposed off granting privilege of anticipatory bail to the



petitioners on the petitioners surrendering before the court below within a period of four weeks from today and on submitting bail bond of Rs.15,000/- each with two sureties of the like amount each to the satisfaction of the learned A.C.J.M. XV, Gopalganj in connection with Kateya P.S. Case No. 369 of 2018. This should, however, be subject to the provisions contained under Section 438(2) of the Cr.P.C. and an additional condition in terms of the undertaking of the petitioner no. 1 given before this Court that he would visit the house of opposite party no. 2 on 5th October, 2019 and shall take his wife (opposite party no. 2) back to her matrimonial home where the petitioner no. 1 is residing.

In case, the petitioner no. 1 commits breach of this condition it will be open for opposite party no. 2 to move this Court for cancellation of bail.”

5. Learned counsel submits that from the conduct of the petitioner no. 1-opposite party no. 2, it would appear that only for purpose of obtaining pre-arrest bail, he pretended before this Court that he was willing to live with the informant and was ready to keep her with full dignity and care. The fact is that after obtaining bail, the petitioner no. 1-opposite party no. 2 never visited the house of the informant and he did not abide by the undertaking given before this Court. The conduct of the



petitioner no. 1-opposite party no. 2 is such that his pre-arrest bail is required to be cancelled.

6. Earlier, vide order dated 13.04.2022, this Court issued notice to the opposite party no. 2 by both modes. After service of notice, the opposite party no. 2 has appeared through *vakalatnama*. The name of learned counsel for the opposite party no. 2 is also printed on the cause list but no one appears on behalf of opposite party no. 2 to defend him.

7. Learned counsel for the petitioner has informed this Court that in fact he had also informed the learned counsel for the opposite party no.2 regarding the listing of the matter.

8. On record, this Court does not find any response to the notice. The averments made in the application seeking cancellation of bail have remained undisputed and uncontroverted.

9. In the circumstances, this Court finds substance in the submission of learned counsel for the petitioner. The opposite party no. 2-husband has obtained order of pre-arrest bail by making this Court to believe that he is looking for amicable settlement of the dispute and he was ready to take his wife to her matrimonial home in order to keep her with full dignity and care. This Court has reasons to believe that he never



intended to abide by the statements made before this Court.

10. In the circumstances, the order of anticipatory bail having been obtained by duping this Court is liable to be cancelled. The anticipatory bail granted to the opposite party no. 2-husband in Cr. Misc. No. 38867 of 2019 is hereby cancelled. The opposite party no. 2-husband is directed to surrender in the learned court below within one week from today, failing which the learned court below shall initiate coercive action to procure his presence.

11. This application stands allowed to the extend indicated hereinabove.

(Rajeev Ranjan Prasad, J)

lekhi/-

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

