

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26487 of 2023

Arising Out of PS. Case No.-2514 Year-2019 Thana- MUZZFARPUR COMPLAINT CASE
District- Muzaffarpur

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Sadiya Ashraf @ Roushan Aara, Wife Of Miltunlah, Daughter Of Ashraf Ali
Resident Of Village-Rahimpur Raksha, P.S.-Sakra, District-Muzaffarpur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Md. Miltunlah @ Md. Minntunlah @ Md. Mintullah, Son Of Md Aalle Hashan, resident Of Village-Ratwara, P.S.-Kalyanpur, District-Samastipur, Presently Reside At Jakariya Colony, Sadpura, P.O.-Ramna, P.S.-Kazimohammad, District-Muzaffarpur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr.Nachiketa Jha
For the Opposite Party/s :	Mr.Rabindra Kumar- A.P.P.
	Mr.Rana Hason
	Mr.Syed Masleh Uddin Ashraf

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 29-04-2024 1. Heard learned counsel for the petitioner, learned counsel for the opposite party no.2 and learned APP for the State.
2. The petitioner seeks cancellation of bail in Complaint Case No.2514 of 2019 registered for the offences punishable under Section 498(A) of the Indian Penal Code and Sections 3 and 4 of the D. P. Act.
3. The learned counsel for the petitioner submits that petitioner is wife of opposite party no.2 and had instituted Complaint Case No.2514 of 2019 against him under Section



498A of the I.P.C. read with Sections 3 and 4 of the D. P. Act.

4. It is further submitted that the opposite party no.2, herein, had approached the learned Sessions Judge, Muzaffarpur seeking anticipatory bail by filing A.B.P. No.1646 of 2022 and the same was allowed by an order dated 18.01.2023. It is next submitted that opposite party no.2 in A.B.P. No.1646 of 2022 had taken a plea that he intends to keep his wife with dignity and honour and he has not solemnized his second marriage. It is next submitted that opposite party no.2 on merit was granted the privilege of anticipatory bail. It is further submitted that though a specific plea was taken by the opposite party no.2 that he has not performed his second marriage, but then, the said submission was false as he had performed his second marriage and as such, the petitioner did not intend to go back to her matrimonial home for reviving the conjugal relationship, as such, the instant application has been filed seeking cancellation of the order dated 18.01.2023 in A.B.P. No.1646 of 2022 passed by the learned Sessions Judge, Muzaffarpur.

5. The learned counsel appearing on behalf of the opposite party no.2 fairly submits that opposite party no.2 has performed his second marriage, but then, the second marriage was performed in a compelling circumstances as petitioner was



not willing to restitute her conjugal rights. It is also submitted that in accordance with the Personal Law, the second marriage is not void. It is next submitted that it appears that the learned lawyer before the learned District Court may perhaps under some misconception made the said submission. It is further submitted that no useful purpose would be served by cancelling the order granting anticipatory bail to the petitioner in consequence whereof, he would be taken in custody as opposite party no.2 is willing to pay a monthly maintenance of Rs.5,000/- (Five Thousand) to the petitioner

6. The learned counsel appearing on behalf of the petitioner also fairly submits based instruction that since opposite party no.2 is willing to pay a monthly maintenance of Rs.5,000/- to the petitioner, as such, no useful purpose would be served by cancelling the anticipatory bail granted to the opposite party no.2. It is next submitted that the learned counsel for the petitioner will whatsapp the bank account number of the petitioner on the whatsapp number of the learned counsel appearing on behalf of the opposite party no.2 and the learned counsel appearing on behalf of the opposite party no.2 submits that he will communicate the same to the opposite party no.2, so that the monthly maintenance, as agreed, commences from



06.05.2024.

7. Considering the submission made by the learned counsel for the parties, the Court is not inclined to entertain the present cancellation application.

8. However, the petitioner would be at liberty to file an application seeking cancellation of the anticipatory bail granted to the opposite party no.2 in the event, if the opposite party no.2 does not pay the amount of monthly maintenance as agreed for two consecutive months.

9. It is further made clear that the present maintenance will be subject to the maintenance being decided by a Court of competent jurisdiction.

(Satyavrat Verma, J)

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