

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51966 of 2021

Arising Out of PS. Case No.-48 Year-2015 Thana- MAHILA P.S. District- Patna

Madhumita Singh, W/O Neeraj Kumar Resident Of Flat No A-11, Capital Residency, Ramnagari Road, Shrinath Nagar, Ashiananagar, P.O. And P.S.- Rajiv Nagar, Distt.- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Neeraj Kumar, Son Of Mohan Prasad Sngh (Head Of Department Of Physiotherapy, Sri Guru Ram Rai Institute Of Medical And Health Sciences), Resident Of Village-Patel Nagar, Industrial Area, Niranganpur, Dehradun (Utrakhand).

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jagannath Singh Mr. Deepak Kumar Mr. Pravashankar Mishra
For the Opposite Party/s	:	Mr. Ram Bilash Roy Raman Mr. Rajeev Ranjan No.II Ms. Kumari Seema Singh

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 09-09-2024 1. Heard learned counsel for the petitioner, the learned counsel appearing on behalf of the opposite party no.2 and learned APP for the State.

2. The instant application has been filed by the petitioner, who was opposite party no.2 in Cr. Misc. No.12272 of 2016 (Niraj Kumar vs. the State of Bihar and another) by an order dated 13.12.2016 in connection with Mahila P. S. Case No.48 of 2015 registered for the offences punishable under Sections 498A, 494, 420/ 34 of the Indian Penal Code.

3. It is next submitted that opposite party no.2, herein, was petitioner in Cr. Misc. No.12272 of 2016. It is further submitted that opposite party no.2, herein, was granted the



privilege of anticipatory bail by an order dated 13.12.2016 in Cr. Misc. No.12272 of 2016 by a learned Bench of this Court.

4. The learned counsel next draws the attention of this Court to Pages-4 and 5 of the order dated 13.12.2016:-

“Though it is stated that some time ago petitioner was head of the Department of Physiotherapy in a private medical college at Dehradun and was getting salary of rupees thirty thousand but right now due to case being lodged he has been reverted back to his earlier post and now he is getting salary of about rupees twenty thousand per month. The affidavit suggests that the petitioner is ready to make payment of rupees two thousand per month apart from relinquishing his right and claim in ancestral/ paternal property but keeping in view the liability of maintaining the informant and education of two children, the petitioner is ready to make payment of Rs.9000/- per month from January, 2017 by depositing the same in the bank account of the informant by second week of every month. Though statement to that effect has not been made in the affidavit.”

5. Since opposite party no.2 herein was ready to pay an amount of Rs.9,000/- per month from January, 2017 to the opposite party no.2 (petitioner herein) by depositing the same in the bank account of informant (petitioner herein) by second week of every month and the said offer was accepted by the informant



(petitioner herein), thus, the Court was pleased to grant anticipatory bail to the opposite party no.2. It is also submitted that the order dated 13.12.2016 also recorded that:- *“Three consecutive defaults in making payment by the petitioner (O.P. No.2 herein) will give liberty to the informant (petitioner herein) to file an application for cancellation of bail.”*

6. The learned counsel submits that the opposite party no.2, herein, in terms of the order dated 13.12.2016 started making payment to the petitioner from January, 2017 and the payment was made only for seven months as would be evident from the passbook of the petitioner annexed as Annexure-4.

7. The learned counsel appearing on behalf of the opposite party no.2 does not dispute the said submission of the learned counsel appearing on behalf of the petitioner that payment to the petitioner by the opposite party no.2 was made for seven months in her bank account, but then, submits that opposite party no.2 paid an amount of Rs.7 Lacs in the account of his father with whom the petitioner is staying and also paid an amount of Rs.8 Lacs in cash to his father towards the maintenance of the petitioner and the children.

8. The learned counsel appearing on behalf of the petitioner vehemently rebuts the said submission of the learned counsel appearing on behalf of the opposite party no.2 and submits that the order dated 13.12.2016 clearly recorded that Rs.9,000/-



was to be credited in the account of the petitioner and three consecutive defaults would make the opposite party no.2 liable for cancellation of his anticipatory bail. It is further submitted that had the opposite party no.2 been paying the amount as directed by this Court, there was no occasion for the petitioner for filing the instant cancellation application. It is submitted that since her father in-law was taking care of the petitioner and the children and the opposite party no.2 was always assuring that he will be paying the amount, as such, the cancellation application was filed a little belatedly. The learned counsel appearing on behalf of the petitioner further submits that opposite party no.2 stands convicted under Section 494 of the I.P.C. read with other Sections by a judgment dated 05th July, 2017. The said submission of conviction is not disputed by the learned counsel appearing on behalf of the opposite party no.2.

9. Considering the submissions made by the learned counsel appearing on behalf of the petitioner, the anticipatory bail granted to the petitioner by an order dated 13.12.2016 in Cr. Misc. No.12272 of 2016 is hereby cancelled.

(Satyavrat Verma, J)

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