

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54735 of 2021

Arising Out of PS. Case No.-138 Year-2018 Thana- JALALPUR District- Saran

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BULBUL KUMARI W/o PRAVEEN KUMAR @ VICKY, D/o
NANDESHWAR SINGH R/o VILLAGE - SABRI BARSIH, P.S -
JALALPUR, DISTRICT - SARAN.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. PRAVEEN KUMAR @ VICKY S/o MAHANTH PANDEY R/o VILLAGE-
TARWAR PACHHIM TOLA, P.S - BHELDI, DISTRICT - SARAN.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh, Advocate
For the Opposite Party/s : Mr. Chandra Bhushan Prasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 10-09-2024 1. Heard learned counsel for the petitioner and Mr.
Chandra Bhushan Prasad learned A.P.P. for the State.

2. Learned counsel for the petitioner submits that the instant application has been filed seeking cancellation of bail granted to the opposite party no. 2 by the learned trial court. It is next submitted that the petitioner had instituted the instant FIR alleging that she was married to opposite party no. 2 on 20.09.2017. After marriage, the opposite party no. 2, during the period of honeymoon, started demanding Rs.10 lakhs for purchasing a car. The father of the petitioner gave Rs.2 lakhs and requested the opposite party no. 2 to purchase a car after obtaining bank loan and the EMI would be paid by her father but thereafter also petitioner was humiliated. Further, on the



date of occurrence, the petitioner was assaulted brutally and was also intoxicated and thereafter she was ousted and she was found lying in an unconscious state on the outskirts of the village of her matrimonial home and the villagers took her to the hospital.

3. Learned counsel for the petitioner submits that after the instant FIR came to be instituted, the opposite party no. 2 herein moved before this Court seeking anticipatory bail by filing Cr. Misc. No. 71650 of 2018 but then the same was rejected by an order dated 12.12.2018 (Annexure-2). It is further submitted that thereafter a compromise was entered in between the opposite party no. 2 and the petitioner and thereafter opposite party no. 2 appeared before the learned Additional Chief Judicial Magistrate, Saran and was released on provisional bail by an order dated 26.02.2019 (Annexure-3) with a condition that he will keep the petitioner with honour and dignity. It is next submitted that thereafter the petitioner filed an application dated 04.01.2020 before the learned Additional Chief Judicial Magistrate bringing to his notice that the opposite party no. 2 had breached the undertaking dated 26.02.2019 based on which he was given the benefit of provisional bail. The learned Additional Chief Judicial Magistrate by an order dated



19.10.2020 extended the provisional bail till 12.11.2020 and the case was referred for mediation. On 10.02.2021 mediation report was received wherein it was recorded that mediation failed, accordingly, the petitioner on 24.06.2021 filed an application for cancelling the provisional bail but thereafter charge sheet was submitted against the opposite party no. 2 on 24.07.2021 and the learned Magistrate took cognizance by an order dated 04.08.2021 and on the same day i.e. 04.08.2021 Annexure-4, opposite party no. 2 filed an application for confirming his provisional bail and the same was confirmed on the same day i.e. 04.08.2021.

4. Learned counsel for the petitioner submits that this Court in Cr. Misc. No. 71650 of 2018 after hearing the learned counsel for the opposite party no. 2 and the petitioner came to a considered conclusion that it was not a case for anticipatory bail and thus the privilege of anticipatory bail was not granted but then the opposite party no. 2 realizing that he will have to surrender he entered into a compromise with the petitioner and assured that he will keep her with honour and dignity and thereafter appeared before the learned trial court on 26.02.2019 and based on the said compromise, he was granted the privilege of provisional bail but then the opposite party no. 2 again



breached the undertaking given before the learned Additional Chief Judicial Magistrate on 26.02.2019 and started torturing the petitioner, accordingly, the petitioner filed an application dated 04.01.2020 before the learned Additional Chief Judicial Magistrate bringing to his notice that opposite party no. 2 had breached the undertaking and is not keeping her with honour and dignity. It is further submitted that since an application was filed by the petitioner before the learned Additional Chief Judicial Magistrate bringing to his notice that opposite party no. 2 had breached the undertaking based on which he was granted the privilege of provisional bail as such learned Additional Chief Judicial Magistrate ought to have inquired from the opposite party no. 2 that as to whether he had breached the undertaking or not but then from perusal of the order dated 04.08.2021 by which his provisional bail has been confirmed, it would manifest that the same does not take into consideration the fact that as to whether the opposite party no. 2 had breached the condition of his undertaking given on 26.02.2019 or not, as such, it is submitted that the application filed by the petitioner seeking cancellation of provisional bail of the opposite party no. 2 was not taken into consideration while confirming the provisional bail of the opposite party no. 2.



5. Learned A.P.P. for the State submits that the petitioner instead of moving before this Court seeking cancellation of the order by which the provisional bail of the opposite party no. 2 was confirmed ought to have moved before the learned trial court itself bringing to its notice the fact as submitted before this Court.

6. Learned counsel appearing on behalf of the petitioner seeks permission to withdraw the instant cancellation application with liberty to move before the learned trial court for the relief claimed in the instant application.

7. Permission is accorded.

8. Accordingly, the instant cancellation application is dismissed as withdrawn.

9. The dismissal of the instant application in no way would come in the way of adjudication of the case before the learned District Court.

(Satyavrat Verma, J)

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