

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21415 of 2024

Arising Out of PS. Case No.-72 Year-2023 Thana- MAHILA P.S. District- Patna

Kiran Kumari Wife of G.M. Kumar Resident of Village- Israuli, P.S.- Marhaura, District- Saran, the then Posted in Rail District- Katihar, Rail P.S.- Jogbani, District- Katihar, Presently Working in DRSS Dial-112 at Shastri Nagar, P.S.- Shastri Nagar, District- Patna. Petitioner/s

Versus

1. The State of Bihar
2. Subhash Chandra Gurjar S/o Hazarilal Gurjar R/o Village- Papda, Ward No.- 01, P.O.- Puhara, P.S.- Viratnagar, District- Jaipur, Rajsthan, Presently Posted at Diesel Shed, Malda Town, N.F. Railway, P.S.- Malda, district- Malda (West Bengal)

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Kumar Samarjeet Singh, Advocate
For the O.P. No.2	:	Mrs. Nivedita Nirvikar, Sr. Advocate
		Mrs. Shashi Priya, Advocate
For the State	:	Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

5 13-01-2026 Heard learned counsel for the petitioner, learned counsel for the opposite party no.2 and learned APP for the State.

2. The present application has been preferred against the order dated 19.09.2023 passed by the learned Additional District and Sessions Judge-I, Patna in A.B.P. No.8483 of 2023, by which the opposite party no.2 was granted anticipatory bail.

3. The learned counsel for the petitioner has submitted that despite the fact that specific allegations have been made in the first information report with regard to the petitioner (informant) being subjected to sexual exploitation by



blackmailing her on the pretext of making some objectionable video of her viral, the privilege of anticipatory bail has wrongly and erroneously been granted to the opposite party no.2. He has further submitted that the petitioner was not heard by the learned Court concerned at the time of granting the privilege of anticipatory bail to the opposite party no.2 and the Court has overlooked the relevant factors, which ought to have been taken into consideration for the purposes of granting the privilege of anticipatory bail inasmuch as the learned Court has not considered the provisions of Section 90 of the Indian Penal Code (hereinafter in short 'IPC') which talks about consent being given under the fear or misconception and any consent having been given under such misconception would not amount to a consent in law. Further, the petitioner has been blackmailed by the opposite party no.2 on account of which she has transferred an amount of Rs.1,50,000/- in the account of opposite party no.2.

4. *Per contra*, learned counsel appearing for the opposite party no.2 vehemently opposes the present application for cancellation of anticipatory bail and defends the order granting bail to be an order based on substantial reasons, not warranting any interference by this Court. To the submission of



learned counsel for the petitioner that the petitioner was not heard at the time of granting anticipatory bail, it is submitted that a bare perusal of the order itself discloses the falsity of the submission inasmuch as in the opening paragraph it is clearly stated that the learned counsel for the informant was heard. Learned counsel for the opposite party no.2 further submitted that order granting bail clearly indicates that the materials collected during the course of the investigation do not support the allegations made by the petitioner and such materials have been considered by the concerned Court in the correct perspective.

5. Having heard the rival contentions of the parties and cursorily perusing the materials available on record, it is clear that the petitioner has raised the ground of perversity in the order granting anticipatory bail to the opposite party no.2 by way of overlooking and not considering the relevant factors based on the allegations made by the petitioner in the first information report itself. Further, the informant of the present case is, admittedly, a constable in Bihar Police and has accepted that her earlier marriage was in the process of getting dissolved when she came into contact with opposite party no.2, who used to allure her and also give assurance to her that he would marry



her and on such pretext of marriage, he sexually exploited her. The F.I.R. also mentions that physical relationship between the petitioner and the opposite party no.2 was regularly being established as the petitioner was tensed on account of her family issues. Upon a bare reading of these allegations, it further appears that the petitioner is an educated adult lady working as a constable in the police force where the opposite party no.2 was also a colleague and at best, the case may have involved in a consensual relationship which eventually could not fructify into a marriage. The very fact that the physical intimacy between the parties, as alleged by the petitioner, has continued over a considerable period of time, it cannot be concluded that the same was done under misconception of fact, as contemplated in Section 90 of the IPC. It also has to be considered that the parameters of grant of bail stand on a completely different level than that of cancellation of bail already granted. In a case where the order granting anticipatory bail, all the facts and circumstances including the materials collected during the investigation have been considered, coupled with the fact that there is no supportive medical evidence with regard to the allegation of abortion etc., which has fallen for consideration before the Court concerned, this Court does not find any



perversity in the order granting anticipatory bail to the opposite party no.2, who is also a Central Government employee in the police force, in view of the law laid down by the several pronouncements of the Hon'ble Apex Court relating to the fact that an order granting anticipatory bail can be interfered on the ground of perversity only when very strong and glaring grounds of perversity in the order granting bail exists making it totally unjustified, legally untenable or passed without due regard to material considerations, proceeding on an erroneous premise, as held in the case of **State of Karnataka Vs. Sri Darshan etc. reported in 2025 SCC OnLine SC 1702**. In absence of such cogent or overwhelming circumstances, the cancellation of bail, once granted, would neither be proper nor desirable.

6. For the reasons as aforesaid, this Court is not inclined to interfere with the order dated 19.09.2023 passed by the learned Additional District and Sessions Judge-I, Patna in A.B.P. No.8483 of 2023. Accordingly, this application is dismissed.

(Soni Shrivastava, J)

Trivedi/-

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

