

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58431 of 2022

Arising Out of PS. Case No.-1970 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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MONA KUMARI Wife of Sri Amlesh Kumar D/o Late Birendra Chaudhary,
R/m- Dujra, P.S.- Budha Colony, Distt.- Patna (Tenant in the house of Sri
Bhagwan Singh).

... .. Petitioner/s

Versus

1. The State of Bihar
2. Amlesh Kumar Son of Sri Madan Singh R/v- Bhagwatiya Rajpur, P.S.-
Keshariya, Purvi Champaran, Distt.- Motihari at present Poluya Paigambar
Bairiya near at Azad Transport, P.S.- Ahiyapur, Distt.- Muzaffarpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Sinha, Advocate
For the State	:	Md. Mushtaque Alam, APP
For O.P. No. 2	:	Ms. Gulafshan Afrin, Advocate Mr. S. Khalid Shah, Advocate

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

4 03-04-2026 Heard learned counsel for the petitioner as well as

O.P. No. 2 and learned APP for the State.

2. The present application has been filed for
cancellation of anticipatory bail granted to the Opposite Party
No. 2, vide order dated 06.04.2022 passed by the court of
learned Sessions Judge, Patna.

3. Learned counsel for the petitioner has submitted
that the present order of granting bail to the Opposite Party No.
2 suffers from the ground of perversity as even though, the
petitioner had appeared and contested the argument of the



Opposite Party No. 2 that the relationship between the parties was not one of a live-in-relationship but of duly performed marriage, anticipatory bail was granted. It was also pointed out that the mutual compromise between the parties by way of a bond paper (Annexure-3 to the application) was a fake and forged document inasmuch as the signature of the petitioner/complainant and her mother have been denied and the same is said to be forged. It has thus, been submitted that the anticipatory bail granted to the O.P. No. 2 on such false ground of a live-in-relationship and of compromise having arrived at between the parties, is fit to be cancelled.

4. Learned counsel has also brought on record by way of supplementary affidavit, a complaint case filed against the Opposite Party No. 2 with regard to the alleged fraud committed with the Court whereupon subsequently, cognizance has also been taken.

5. Learned APP for the State opposed the prayer for cancellation of anticipatory bail of the Opposite Party No. 2.

6. After having gone through the contentions of the petitioner and the other documents on record, it appears that the order dated 06.04.2022 clearly indicates in the last but one paragraph that there appears to be a dispute of marriage and it



only refers to a claim that there was a live-in-relationship between the petitioner Amlesh Kumar, who is the present Opposite Party No. 2, and the complainant, who is the present petitioner. It is clear from such words that there is a claim and counter claim which in no way decides the legality or illegality of the marriage, nor the impugned order indicates the same.

7. So far as the compromise in the form of bond paper is concerned, from the bare perusal of same, it appears that the signature of the present petitioner/complainant and her mother appears on the said documents and the Court of learned Sessions Judge would not have been in a position to decide as to whether the same was forged or not. However, the order granting bail has not only considered the factum of compromise but has mainly considered that there was a dispute with regard to the marriage and had also considered that Opposite Party No. 2 was physically disabled person, showing 90 per cent of disability.

8. In any view of the matter, the petitioner/informant has the unfettered right to pursue the subsequent complaint case filed by him against Opposite Party No. 2 relating to forgery which would reach its own logical conclusion. But the filing of the said complaint petition and taking cognizance thereupon, is a subsequent development, which was not present before the



Court while granting anticipatory bail. Moreover, taking of cognizance only establishes a *prima facie* case and is not conclusive proof of fact.

9. Considering the facts and circumstances and having heard the rival submissions of the parties, it cannot be said that the view taken by the learned Court concerned was a perverse view. Thus, keeping in view the principles and guidelines with respect to cancellation of bail as laid down by the Hon'ble Apex Court in catena of decisions that very cogent and overwhelming circumstances are necessary for interfering with the discretion in granting bail, I do not see any good ground to set aside the order of the learned Sessions Judge, Patna, as such, the present application for cancellation of bail stands dismissed.

10. However, it is made clear that the order granting anticipatory bail to the Opposite Party No. 2 would not have any implication on any other proceeding between the parties.

(Soni Shrivastava, J)

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