

SUPR EME COUR T OF I ND I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).8961/2008

(From the judgement and order dated 10/09/2008 in CRLM No. 21698/2008
of The HIGH COURT OF PATNA)

BHARAT RAI & ANR. Petitioner(s)

VERSUS

STATE OF BIHAR Respondent(s)
(With appln(s) for stay of arrest and office report)

Date: 04/09/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE H.L. DATTU

For Petitioner(s) Mr. Samir Ali Khan,Adv.

For Respondent(s) Mr. Gopal Singh,Adv.
Mr. Anuj Prakash,Adv.

UPON hearing counsel the Court made the following
ORDER

Leave granted.

The appeal is allowed; the impugned order is set
aside and it is directed that in event of arrest of the
appellants they will be admitted to bail by the Investigating
Officer on such terms and conditions as he deems fit.

The appeal is disposed of accordingly in terms of the
signed order.

[Madhu Bala]
Sr.PA

[Pushap Lata Bhardwaj]
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1696/2009
(@ SPECIAL LEAVE PETITION(CRL.)NO.8961 OF 2008)

BHARAT RAI AND ANOTHERAPPELLANT/(S)

VERSUS

STATE OF BIHARRESPONDENT/(S)

ORDER

Leave granted.

This appeal is directed against order dated 10 September, 2008 passed by the High Court of Judicature at Patna in Crl.Misc.No.21698 of 2008. By the impugned order the High Court has cancelled the anticipatory bail granted to the petitioners vide order dated 26 September, 2007.

The main ground on which the High Court felt convinced to cancel the interim protection granted to the petitioners was that a statement was made by the complainant before the Court that after the passing of order dated 26 September, 2007, her husband took her to matrimonial home and there the father-in-law, the mother-in-law and the husband again started torturing her; the father-in-law made certain allegations against her character; the mother-in-law and the father-in-law dragged her in the house.

...2/-

-2-

In response to issue of notice, a counter affidavit has been filed by the State, wherein it is stated that complaint filed by the wife was referred to S.P.Katihar on 30 April, 2009 for investigation. On query by us learned counsel appearing on behalf of the State is not in a position to apprise the Court about the final outcome of the investigation; if at all conducted by the police.

Having heard learned counsel for the parties and keeping in view the facts and circumstances of the case, in our judgement the High Court was not justified in cancelling the anticipatory bail granted to the appellants merely on the statement of the complainant, when no adverse report was submitted by the Investigating Officer against the appellants.

Accordingly, the appeal is allowed; the impugned order is set aside and it is directed that in event of arrest of the appellants they will be admitted to bail by the Investigating Officer on such terms and conditions as he deems fit.

The appeal is disposed of accordingly.

.....J.
[D.K. JAIN]

4TH SEPTEMBER, 2009
NEW DELHI [H.L. DATTU]

.....J.