

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25095 of 2015

Arising Out of PS.Case No. -320 Year- 2014 Thana -BISFI District- MADHUBANI

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Md. Mehtab @ Mehtab S/o Abdul Satar Resident of Village Bardaha, P.S. Bisfi (Patauna), District Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Nusharat Pravin D/o Late Md. Baddu Resident of Village Tisi, P.S. Bisfi (Patauna), District Madhubani.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha, Adv
For the Opposite Party/s : Mr. Rajeev Nayan(App)
For the O.P. No. 2 : Mr. Gagandeo Yadav, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 25-08-2015 Heard learned counsel for the parties.

Having regard to the nature of allegation against the petitioner for the offences punishable under Sections-341, 323, 504, 498A/34 of the Indian Penal Code and that the petitioner has not only asserted in the bail application but his counsel has also submitted before this Court that the petitioner was, is and will be always ready to treat his wife-Opposite Party No. 2 with due respect and dignity that a wife would deserve in the hand of the husband, this Court upon hearing learned



counsel for Wife-Opposite Party No. 2, that she also wants to restore her relationship and is ready to live with the petitioner, this Court would direct both the petitioner and wife-Opposite Party No. 2 to appear before the Court below on 14.09.2015, whereafter the Court below shall grant provisional bail to the petitioner namely **Md. Mehtab @ Mehtab** for a period of three months on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of **Judicial Magistrate 1st Class, Madhubani** in connection with **Bisfi (Patauna) P.S. Case No. 320 of 2014 (corresponding to G.R. No. 3488 of 2014)** on the following terms and conditions:-

(i) That both the bailors will be close relative of the petitioner who will give an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the bailors shall also state on affidavit that they will inform the Court concerned



if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the Court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.

(iii) That the petitioner will be well represented on each and every date of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

(iv) After expiry of period of three months, the petitioner and Opposite Party No. 2 shall again appear before the Court below and the trial Court will make inquiry from Wife-Opposite Party No. 2, that she was not subjected to any cruelty, mental or physical by her husband or his family members, the provisional bail of the petitioner shall be extended, for a period of six months.

(v) After expiry of period six months, the petitioner and Wife-Opposite Party No. 2, shall again appear before the Court below and the trial Court will make similar inquiry from Opposite Party No. 2, the wife, as to whether she was subjected to any cruelty, mental or physical by her husband or his family members and in the event of a satisfactory answer of opposite party no. 2, the provisional bail of the petitioner shall be extended,

this time, for a period of one year.

(vi) After expiry of aforesaid period of one year, the petitioner and Wife-Opposite Party No. 2 shall again appear before the Court below and the trial Court on inquiry from Opposite Party No. 2, the wife, and being satisfied that she was not subjected to any cruelty, mental or physical by her husband or his family members, and in the event of there being no complain with regard to behaviour of the petitioner and his family member, his (petitioner) provisional bail shall be confirmed.

(vii) It is also made clear that at any point of time if the Wife-Opposite Party No. 2 during the pendency of the present criminal case alleges that she was subjected to any cruelty, mental or physical by her husband or his family members, the court below after making necessary enquiry and giving an opportunity to the petitioner, shall be at liberty to cancel the bail of the petitioner.

(viii) The petitioner, however, must appear before the Family Court in the pending maintenance case filed by the Wife-Opposite Party No. 2, within a period of one month from the date of grant of provisional bail but during the period of pendency of criminal case, the maintenance case filed by Wife-Opposite Party No. 2, shall

remain stayed and only if at any point of time during the pendency of the maintenance case filed by Wife-Opposite Party No. 2, the bail of the petitioner is not extended or cancelled on account of any allegation made by the Wife-Opposite Party No. 2 against the petitioner of further misbehaviour or she being subjected to any cruelty, mental or physical by her husband or his family members, the maintenance case shall be revived, whereafter the Family Court will be at liberty to pass any appropriate order against the petitioner.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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