

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45834 of 2015

Arising Out of PS.Case No. -292 Year- 2013 Thana -KESARIA District-
EASTCHAMPARAN(MOTIHARI)

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Syed Zafar Aqbal @ Guddu @ Syed Zafar Iqbal @ Gudu Son of Syed Md. Tauhid Resident of village - Rampur Bairiya, Police Station - Kesariya, District - East Champaran (Motihari)

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhurendra Kumar, Adv

For the Opposite Party/s : Mr. Mukesh Kr.Singh(App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 30-10-2015 Heard learned counsel for the parties.

Learned counsel for the petitioner, prays for and is allowed to make correction in the prayer portion of this bail application.

Having regard to the nature of allegation against the petitioner for the offences punishable under Sections-366(A)/34 of the Indian Penal Code and the fact that the statement of victim girl under Section 164 of Cr.P.C., was recorded after her recovery on 07.01.2014 i.e. within two weeks of the lodging of the FIR and while supporting the prosecution case of her being kidnapped and taken



away forcibly at a point of time when she was minor has been supported but she has herself come out to say that she had been married to the petitioner since, 27.12.2013, this Court taking into account that subsequently this fact also has been again supported in an application described as compromise petition of 24.08.2015, would find that the petitioner will be entitled for the privilege of anticipatory bail only on certain conditions.

That being so, if the petitioner namely, **Syed Zafar Aqbal**, surrenders within a period of four weeks from today, he would be released on provisional bail for a period of three months to be renewed periodically under the following conditions 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, East Champaran at Motihari** in connection with **Kesariya P.S. Case No. 292 of 2013**, subject to the conditions laid down under Section- 438 (2) Cr. P.C and also subject to the following conditions:-



(i) The petitioner shall give an undertaking that he will never leave the victim girl and that if at any point of time, the victim girl, is even neglected much less tortured either physically or mentally by the petitioner and if she files an application to this effect, the bail of the petitioner shall be immediately cancelled.

(ii) For the time being the petitioner and now the wife Opposite Party No. 2 shall keep on appearing before the Court below on expiry of every three months, for a period of two years, during which the Court below shall make inquiry from the victim girl now wife of the petitioner and if she alleges any sort of misbehaviour of physical/mental cruelty on her by the petitioner, the bail of the petitioner shall be cancelled.

(iii) 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.

(iv) That the bailor 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.

(v) 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.

(Mihir Kumar Jha, J)

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