

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.336 of 2020

Arising Out of PS. Case No.-93 Year-2016 Thana- SITAMARHI COMPLAINT CASE
District- Sitamarhi

MD. MUSTAFA, Son of Md. Akhtar @ Md. Kaleem Akhtar, Resident of
Village - Bachharpur, P.S.- Pupri, Distt.- Sitamarhi.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Raushan Khatoon, W/o Md. Mustafa, D/o Md. Akhtar, Resident of Village -
Harpurwa, P.S.- Bajpatti, Distt.- Sitamarhi.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha, Adv.

For the Opposite Party/s : Mr. Ram Bachan Singh, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

5 23-06-2020 Heard learned counsel for the petitioner and learned
APP for the State.

The matter has been taken up through virtual Court
proceeding.

The petitioner has preferred the present case for grant of
bail in a case of misuse of privilege of bail in complaint case



wherein process has been directed to be issued after cognizance being taken for the offence punishable under Section 498A of the I.P.C.

Though vide order dated 28.01.2020, notices were issued to Opposite Party No.2 by a Co-ordinate bench of this Court, but the office note dated 30.05.2020 reflects that the service report of notice has not been received as yet when it appears that the notices have been issued in February, 2020 under both modes, i.e., registered cover with A.D. and ordinary process of notice.

In the circumstances, treating the notices to be deemed valid service upon Opposite Party No.2, the matter is being taken up on merits since it is a case for misuse of privilege of bail.

The petitioner, being the husband of the complainant, was granted anticipatory bail vide order dated 10.08.2017, passed in Criminal Miscellaneous No. 1885 of 2017. The petitioner's bail bond was cancelled vide order dated 29.08.2019 after rejecting the petition of the petitioner under Section 317 of the Cr. P.C. Since witness was in appearance during trial. Though the petitioner is in custody since 04.11.2019 and there is nothing on record to suggest that in the last about eight months any



progress has been made in trial.

Since the petitioner was granted anticipatory bail on merits and has remained in custody for about seven months, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned SDJM, Pupri, Sitamarhi, in connection with Complaint Case No. C1-93 of 2016.

However, in view of the present pandemic, COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned SDJM, Pupri, Sitamarhi, in connection with Complaint Case No. C1-93 of 2016.

The learned Court below will further be at liberty to extend the period of provisional bail further if the court



proceeding in physical mode will not resume in next three months.

(Dinesh Kumar Singh, J)

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