

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.6492 of 2020**

**In
CRIMINAL MISCELLANEOUS No.22100 of 2019**

Arising Out of PS. Case No.-25 Year-2018 Thana- COMPLAINT CASE District- Jamui

MD. FAIYAZ ALAM @ FAIYAZ ALAM Son of Md. Israil Resident of
Village - Sunsihari, P.S.- Muffasil, Distt - Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shahin Parveen Wife of Md Faiyaz Alam Resident of Village - Aadha, P.S.-
Chandradeep, Distt - Jamui.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Raj Kishor Prasad, Adv.
For the State	:	Mr. Akhileshwar Dayal, APP Incharge
For the O.P. No.2	:	Mr. Atul Kumar Mehta, Adv.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

5 08-09-2020 Heard learned counsel for the petitioner and Mr. Akhileshwar Dayal, learned A.P.P. Incharge for the State in absence of Mr. Md. Nazir Ansari, learned A.P.P. and Mr. Atul Kumar Mehta, learned counsel representing opposite party no. 2.

Petitioner in the present case has challenged the order dated 04.12.2019 passed by learned S.D.J.M. Court, Jamui in case no. 25(C) of 2018 whereby the learned court below has refused to confirm the bail of the petitioner on the ground that the petitioner has not got any further direction/guidance from the Hon'ble High Court. As a matter of fact, this petitioner had earlier moved this Court in Cr. Misc. No. 22100/2019 seeking anticipatory bail in



complaint case no. 25(C) of 2018 for the offences alleged under Section 498 of the Indian Penal Code. After an interim order passed by this court in the said application the petitioner went to the house of the complainant and brought her back to his matrimonial home and thereafter they started living together. This Court vide its order dated 10.05.2019 granted provisional anticipatory bail for a period of six months with a further stipulation that during this period the Court below will watch the conduct of the parties by calling the complainant and the petitioner in the first week of each month for a period of six months and after six months, if the court below is satisfied with the conduct of the petitioner, he will confirm the provisional bail of the petitioner otherwise, he is free to pass any order as he deems fit and proper including the cancellation of provisional bail of the petitioner.

Learned counsel for the petitioner submits that from the impugned order dated 04.12.2019 itself it will appear that the petitioner had taken his wife – complainant with himself to his matrimonial home on 07.06.2019 but on 01.08.2019 the complainant filed an application for cancellation of provisional bail. This application was duly replied by the petitioner. The learned court below noticed the submissions on behalf of the parties whereunder this petitioner while expressed his intention to keep the complainant with himself, the complainant was not



willing to live with this petitioner. It is submitted that in such circumstance following the order of this Court the learned court below was fully competent to call both the parties and then after interacting with them the learned presiding officer of the court would have recorded his satisfaction or dissatisfaction based on which learned presiding officer could have passed an appropriate order. It is submitted that in such circumstance the order dated 10.05.2019 passed in Cr. Misc. No. 22100/2019 clearly states that if the court below is satisfied with the conduct of the petitioner he will confirm the provisional bail otherwise he will be free to pass any order as he deems fit and proper including cancellation of provisional bail.

Learned A.P.P. for the State as well as learned counsel representing opposite party no. 2 do not dispute that by virtue of the order dated 10.05.2019 the learned presiding officer in the court below has to call the complainant and the petitioner and then he has to record his satisfaction with the conduct of the petitioner. Based on his satisfaction with regard to the conduct of the petitioner the learned court below has to pass appropriate order as indicated by the Hon'ble High Court.

Having heard learned counsel for the parties and on perusal of the records, this Court finds that at this stage this Court is not required to go into the merit of the contentions of the parties.



It is apparent from the order dated 10.05.2019 passed in Cr. Misc. No. 22100/2019 that the learned court below has to call the complainant and the petitioner, get satisfied with the conduct of the petitioner and in case he is satisfied he will confirm the provisional bail of the petitioner otherwise he would be free to pass an appropriate order as he deems fit and proper including cancellation of provisional bail of the petitioner.

Since the provisional bail of the petitioner has not been extended by the learned court below while keeping the matter pending, this Court extends the provisional bail period in the interest of justice for a further period of three months. During this three month's period from the date of start of physical court the learned court below shall call both the parties and pass appropriate order either confirming the bail or cancelling the bail based on the court's satisfaction.

This application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

