

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.11965 of 2020**

**In
CRIMINAL MISCELLANEOUS No.49228 of 2019**

Arising Out of PS. Case No.-650 Year-2017 Thana- NAWADAH COMPLAINT CASE
District- Nawada

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RAJ KISHORE NAYAK @ RAJ KISHORE NAYAK S/o Dwarika Sao R/o
village and P.S.- Gomia, District- Bokaro (Jharkhand)

... .. Petitioner

Versus

1. The State of Bihar
2. Pooja Devi W/o Raj Kishore Nayak, D/o Vijay Sao Residing at village and
P.S.- Govindpur, District- Nawada

... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr.Nawal Kishore Singh, Advocate
For the Opposite Party/s : Mr. Md. Fahimuddin, APP

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

3 03-09-2020 Heard learned counsel for the petitioner and Mr. Md.
Fahimuddin, learned APP for the State.

The petitioner in the present case is seeking modification
of the order dated 17.09.2019 by extending three weeks' time to
surrender in the learned court below by virtue of the order dated
17.09.2019 passed in Cri. Misc. No. 49228 of 2019.

The operative part of the order dated 17.09.2019 reads as
under:-

“In view of above facts and circumstances, this
application is disposed of with direction to
petitioner to surrender in the court below on
27.09.2019, on that day opposite party No. 2
shall also remain present in court and court
below shall release the petitioner on provisional
bail for a period of three months to its own
satisfaction and in the meantime learned court



below shall refer the matter to the District Mediation Centre in order to watch their conduct and marital relationship and once the court below is satisfied on receipt of report of Mediation Centre, the court below shall confirm the bail bonds of the petitioner, otherwise the court below is free to pass any other order(s) as it may deem fit and proper, including cancellation of bail bonds of the petitioner.”

Learned counsel for the petitioner submits that in fact the petitioner is doing a labourer kind of job and in connection with his livelihood he was outside the State and hence, could not appear on the only date fixed by the aforementioned order.

Learned counsel for the petitioner submits before this Court that there has been some communication gap in informing about the order passed by this Court which has also contributed to the fault.

Learned APP for the State submits that although in this case the Opposite Party No. 2 is required to be heard but considering the present pandemic situation when the Court is not working normal and even service of notice on O.P. No. 2 would not be possible, this Court may while considering the case of the petitioner and giving an opportunity to him taking note of the nature of dispute being matrimonial, ensure that the learned court below accepts the bail bond of the petitioner for provisional bail in terms of the order dated 17.09.2019 only when the petitioner surrenders in the learned court below with prior service of notice on O.P. No. 2 and the date on which he is going to surrender so that O.P. No. 2 may remain present



in Court.

Regard being had to the facts and circumstances of the case, finding that the dispute is in the nature of a matrimonial dispute and while passing the order dated 17.09.2019 the learned predecessor Court had kept in view the scope of mediation between the parties, this Court directs that in case the petitioner surrenders within three weeks from today in the court below with prior service of notice/surrender petition on O.P. No. 2 and with prior notice of the date on which the petitioner will be surrendering in the court below, learned court below on being satisfied with this condition proceed to accept the bail bond in terms of the order dated 17.09.2019 passed in Cri. Misc. No. 49228 of 2019.

Learned Court below must ensure that O.P. No. 2 is duly served before considering the surrender petition of the petitioner. Rest of the order dated 17.09.2019 shall remain intact.

This application stands disposed of 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'.

