

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.47569 of 2019**

Arising Out of PS. Case No.-2266 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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RAJ KISHOR KUMAR Son of Chandrika Rai Resident of Village - Sarai
Muzaffar, P.S.- Dariyapur, Distt - Saran at Chapra.

... .. Petitioner

Versus

1. THE STATE OF BIHAR
2. Guria Devi Wife of Raj Kishore, D/o late Surendra Prasad Resident of
Village - Ramchaura Mandir, Rambhadra Nichi, Nanda Colony, P.S.-
Hajipur, Distt - Vaishali at Hajipur and Presently residing at C/o Umesh
Yadav, Lakshmi Sadan, P.N.T. Colony, Kidwaipuri, P.S.- Budha Colony,
Distt - Patna.

... .. Opposite Party

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Appearance :

For the Petitioner/s	:	Mr. Bindhyachal Singh, Adv.
For the State	:	Ms.Renu Kumari, APP
For the O.P. No.2	:	Mr. Alok, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

11 09-09-2020 Heard Mr. Bindhyachal Singh, learned counsel for the

petitioner and Ms. Renu Kumari, learned A.P.P. for the State as

well as Mr. Alok, learned counsel representing the opposite

party no. 2.

Petitioner, in the present case, is seeking pre-arrest
bail in connection with Patna Complaint Case No. 2266 of 2018
registered for the offence under Sections 323 and 498(A) of the
Indian Penal Code, pending in the court of learned Additional
Chief Judicial Magistrate, X, Patna.

Learned counsel for the petitioner submits that this



seems to be a case of incompatibility between the petitioner and his wife – complainant, though the allegation is that petitioner and co-accused have ousted this complainant – opposite party no.2, however it is the submission of learned counsel for the petitioner that both the parties are looking for final settlement.

Mr. Singh, learned counsel for the petitioner submitted that earlier in the proceeding for restitution of conjugal rights filed by this petitioner in the court below, vide order dated 14.06.2018 a sum of Rs. 4000/- has been awarded to the complainant – opposite party no. 2. This interim order dated 14.06.2018 was passed on contest but it is a fact that the petitioner did not challenge the said order before any appropriate court in any proceeding.

It is then submitted that although the complainant – opposite party no. 2 has moved this court in Cr. Misc. No. 3159/2018 for transfer of the restitution case proceeding to another court of her convenient having difficulties on her part in attending the matter and in the said proceeding while issuing notice to this petitioner the further proceeding has been stayed, the petitioner remained under impression that because of that stay now he is not required to pay the amount. It is for this reason alone that he is not paying that amount but Mr. Singh has



submitted on instruction that this petitioner is ready and willing to pay a sum of Rs. 4000/- for the present to the complainant – opposite party no. 2 per month current and on account of arrear he would be paying one installment of Rs. 4000/- every month till the total amount due as on date from 14.06.2018 stands fully paid thus, the total amount of Rs. 8000/- per month for the present will be paid to the complainant – opposite party no. 2. It is submitted that the petitioner in order to show his bonafide is making this submission without prejudice to the merit of the case.

Learned A.P.P. for the State as well as learned counsel for the complainant – opposite party no. 2 have though opposed the prayer for anticipatory bail of the petitioner but learned counsel for the opposite party no. 2 has agreed that considering the nature of dispute being matrimonial dispute between the parties and now that both are looking for final settlement if the petitioner has offered to pay the interim amount of Rs. 4000/- per month current as well as Rs. 4000/- per month installment against the arrear till entire amount is paid, opposite party no. 2 shall accept the same subject to her own right and contentions which may be raised in an appropriate proceeding and the acceptance of that amount shall not be taken as a ground in any



proceeding against the opposite party no. 2.

Having regard to the facts and circumstances of the case, taking note of the submissions of the parties this court directs that let the provisional bail granted to the petitioner vide order dated 31.07.2019 by the learned coordinate Bench of this court is hereby confirmed.

Let the petitioner remain on the same bail bond, subject to the condition mentioned under Section 438(2) Cr.P.C. as well as that the petitioner shall in terms of his own undertaking before this court start paying Rs. 8000/- per month from this month i.e. Rs. 4000/- for the month of September, 2020 and Rs. Rs. 4000/- against the arrear. He will continue to pay the current and then the arrear amount till the entire arrear amount is paid. This is however without prejudice to both the parties and they would be free to raise all such contentions which may be available to them in other proceeding.

In case the petitioner fails to abide by his offer and undertaking before this court, the complainant – opposite party no. 2 shall bring it to the notice of learned court below whereupon the learned court below shall proceed to pass appropriate order including order for cancellation of bail bond of the petitioner.



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'.

