

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.80253 of 2019**

**In
CRIMINAL MISCELLANEOUS No.46187 of 2019**

Arising Out of PS. Case No.-1158 Year-2017 Thana- KHAGARIA COMPALINT CASE
District- Khagaria

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Md. Mansoor @ Md. Mansoor Iqbal Son of Late Md. Sadik Resident of
Village - Gajabaja, P.S.- Bithan, District - Samastipur.

... .. Petitioner

Versus

1. The State of Bihar
 2. Shahnaj Khatoon Wife of Md. Mansoor @ Md. Mansoor Iqbal, D/O- Md.
Maqbool Resident of Village - Mujahida, P.S.- Parbatta, District - Khagaria.
- Opposite Parties

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar, Advocate
For the Opposite Party/s	:	Mr.Dr. Kumar Uday Pratap,APP
For the Informant	:	Mr.Firoz Ahmed, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

10 07-12-2020 Heard learned counsel for the petitioner, Mr. Dr.

Kumar Uday Pratap, learned APP for the State and Mr. Firoz
Ahmed, learned counsel representing O.P. No. 2.

This application has been filed seeking modification
of the order dated 26.09.2019 passed by this Court in Cri. Misc.
No. 46187 of 2019. By said order this Court, while taking note
of the submissions of learned counsel for the petitioner that the
petitioner is ready to visit the place of Opposite Party No. 2 and
shall bring her back and then there was a statement on behalf of
the complainant-O.P. No. 2 that she will also withdraw the
divorce suit, confirmed the provisional bail of the petitioner on



the previous bail bond. In fact the petitioner had been granted provisional bail vide order dated 26.07.2019 and at the time of confirmation of the said bail this Court was given to understand that the petitioner had furnished the bail bond previously pursuant to the order dated 26.07.2019. Now by filing the present application the petitioner has submitted before this Court that as regards the order dated 26.07.2019 his learned counsel did not inform him about the grant of provisional bail and need to submit bail bond.

It is stated in paragraph '4' of the present petition that his lawyer had informed that there is an interim order directing no coercive step to be taken against the petitioner. It is stated that for this reason the petitioner had not submitted the previous bail bond.

The petitioner has then submitted that after order dated 26.09.2019 the petitioner was unable to submit the bail bonds because this Court had confirmed the bail on a belief that the petitioner had previously submitted the bail bond.

Learned counsel submits that when this application was taken up for consideration earlier, this Court vide its order dated 22.06.2020 took a view that the petitioner had not complied with the undertaking given by him before this Court



wherein he was obliged to go to the maika of the O.P. No.2 and bring her back to the matrimonial home. The Court was not happy with the complete silence of the petitioner on this point in the present petition and for that reason a view was taken that the petitioner has not come out with a statement in the modification application making it clear as to why he had not abide by his undertaking. For this reason a show cause was issued to the petitioner.

Learned counsel submits that show cause has been filed and the petitioner has explained in his show cause that he was unable to visit the maika of O.P. No. 2 because having no protection from arrest he was afraid that he may be arrested and, thus, he was advised to seek modification of the order from this Court.

Today, Mr. Firoz Ahmed, learned counsel for O.P. No. 2 has once again reiterated that O.P. No. 2 is willing to live with this petitioner and she is also ready to withdraw the divorce suit. After a brief submission, it has been agreed by learned counsel for the petitioner and learned counsel for O.P. No. 2 that immediately after modification of the order and on an opportunity being given to the petitioner to submit bail bond he will visit the maika of O.P. No. 2 within two weeks and then he



will bring her back to his matrimonial home where she will be living as a legally wedded wife with full dignity and care.

Mr. Firoz Ahmed, learned counsel for O.P. No. 2 has also submitted that this Court while granting an opportunity to the petitioner to submit the bail bonds may give a specific direction to the learned court below that in case the petitioner fails to abide by his undertaking, on an application which may be filed by O.P. No. 2 in the court below, steps shall be taken to cancel the bail bond of the petitioner.

Having regard to the totality of the facts and circumstances of the case, this Court accepts the submission of learned counsel for the petitioner that he was unable to visit the place of O.P. No. 2 because of his inability to submit the bail bond and because of the fact that he had no protection. Let the show cause be accepted. The order dated 26.09.2019 is modified to the extent that now the court below shall allow the petitioner to furnish bail bond of the given amount as indicated in the order dated 26.07.2019 and to that extent the order dated 26.09.2019 saying that the bail is confirmed on the previous bail bond will be taken to have been modified as if on submission of bail bond by the petitioner in terms of the order dated 26.07.2019, learned court below shall accept the same and the



said provisional bail will be taken to have been confirmed by this Court in terms of the order dated 26.09.2019.

Let the petitioner surrenders and submits his bail bond in the learned court below within a period of 2 weeks from today. The said bail bond shall be accepted by the learned court below and thereafter within two weeks in terms of his undertaking the petitioner shall visit the maika of O.P. No. 2 and shall bring her back to his matrimonial home. If the petitioner fails to abide by this undertaking, it will be open for O.P. No. 2 to file an application in the learned court below itself for cancellation of the bail bond and thereupon the learned court below shall take steps towards cancellation of the bail bond taking it a case of breach of undertaking for purpose of bail.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

SUSHMA2/Rajeev

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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'.

