

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19404 of 2020

In
CRIMINAL MISCELLANEOUS No.49267 of 2019

Arising Out of PS. Case No.-918 Year-2017 Thana- BUXAR COMPLAINT CASE District-
Buxar

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Om Prakash Upadhyay Son of Ras Bihari Upadhyay Resident of Village-
Kamdherpur, P.S.-Koran Sariya, District-Buxar

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. Gunjan Devi W/o Om Prakash Upadhyay, D/o Manoj Kumar Upadhyay
Resident of Village-Kamdherpur, P.S.-Koran Sariya, District-Buxar,
presently R/o Village-Renka, P.S-Sikroul, District-Buxar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rajiv Ranjan Kr. Pandey, Advocate
For the Opposite Party/s	:	Mr. Atul Chandra, APP
For the O.P. No. 2	:	Mr. Chandrashekhar Azaad, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

5 06-01-2021 Heard Mr. Rajiv Ranjan Kumar Pandey, learned
Advocate for the petitioner and Mr. Chandrashekhar
Azaad for the Opposite Party No. 2. The State is
represented by Mr. Atul Chandra, learned APP.

This is an application seeking modification of
the order dated 24.10.2019 passed in Cr. Misc. No.
49267 of 2019, whereby the petitioner was directed to
surrender before the court below by 18.11.2019 along
with an undertaking that he shall co-operate in the
divorce case and then he shall be released on bail on
furnishing bail bonds in the sum of Rs. 25000/- (Twenty
Five Thousand) with two sureties to the satisfaction of
the court below.



For some reason or the other, the petitioner could not surrender before the court below on that date.

According to the learned counsel for the petitioner, even the opposite party no. 2 did not appear before the court on that date. A petition, therefore, has been filed for modifying the order and extending the date within which the petitioner could surrender before the court below to avail of the benefits of the order dated 24.10.2019.

Learned counsel for the opposite party no. 2, however, has stated that the petitioner, all this while, has not been co-operating in the divorce case and has also not paid the monthly sum of Rs. 3000/- towards maintenance for about a year.

Learned counsel for the petitioner, however, submits that he is willing to make up to date payment but only requests for a soft installment to be fixed by the court as he is in great financial stringency because of Covid-19 Pandemic closure.

Considering the aforesaid submissions on behalf of the parties, the order dated 24.10.2019 is modified to the extent that if the petitioner surrenders before the court below within a period of six weeks from today, he shall be released on bail on his furnishing bail bonds in the sum of Rs. 25000/- (Twenty Five Thousand) with



two sureties to the satisfaction of the learned Chief Judicial Magistrate, Buxar in connection with Complaint Case No. 918(C) of 2017.

However, the petitioner shall furnish an undertaking that he shall co-operate in the divorce case. He shall also undertake to make up-to-date payment of the maintenance amount to opposite party no. 2. The court shall initially grant provisional bail to the petitioner and shall also fix the installment for making the payment of the maintenance amount which is due for about a year. Needless to state that if the undertaking of the petitioner is not fulfilled, his provisional bail shall not be confirmed. As and when the entire amount of maintenance is paid, the court below would confirm the provisional bail of the petitioner.

The other conditions if any in the order dated 24.10.2019 shall subsist.

The order dated 24.10.2019 stands modified to the extent indicated above.

The application stands allowed.

(Ashutosh Kumar, J)

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