

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62814 of 2021

Arising Out of PS. Case No.-519 Year-2019 Thana- MASHRAK District- Saran

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ISMILE ALI Son of Bhola Sai Resident of Village- Samastpur, P.S.-
Mashrakh, District- Saran (Chapra)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Guriya Khatoon W/o Ismile Ali, D/o Late Nazir Hussain Resident of
Village- Samastpura, P.S.- Mashrakh, District- Saran (Chapra), at present
residing at Village- Salimapur, P.S.- Marhowrah, District- Saran (Chapra)

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Singh
For the Opposite Party/s : Mr.Jitendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 14-06-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

The petitioner apprehends his arrest in connection
with Masrakh P.S. Case no. 519 of 2019 registered under
sections 498A, 323, 341, 307, 504 and 506/34 of the Indian
Penal Code.

Learned counsel for the petitioner submits that the
petitioner has been granted anticipatory bail by Addl. Sessions
Judge X, Saran vide order dated 24.11.2020 passed in ABP No.
2380/2020 and according to the said order, petitioner was
directed to take the informant from her parental house but the



informant did not take any interest in living with the petitioner and thereafter, the petitioner approached the court below with a prayer to modify the said condition and this petition was taken up for hearing after 09 months of filing of modification petition and merely considering the said delay, the learned court below dismissed the petitioner's petition.

Learned APP opposes the prayer for anticipatory bail and submits that the same is not maintainable because the said relief had already been granted by the learned court below.

In view of the above fact, this petition is not maintainable as the relief sought in this criminal miscellaneous had already been granted by the court below and the main issue is concerned to modification of a condition imposed by the court below in the order impugned. It appears from the order dated 30.9.2021 modification petition was not decided by the court below on merit. Hence this petition stands dismissed on account of being not maintainable with a direction to the court below to decide the petitioner's modification petition on merit after giving opportunity of hearing to the petitioner and opposite party no.2 within one month.

During the course of pendency of modification petition, no coercive steps shall be taken against the petitioner in



connection with Masrakh P.S. Case no. 519 of 2019 pending in
the court of the Addl. Chief Judicial Magistrate VI, Saran at
Chapra.

(Shailendra Singh, J)

s.hassan/-

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