

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54605 of 2022

Arising Out of PS. Case No.-338 Year-2019 Thana- CHHAURADANO District- East
Champaran

=====

NAIMUDIN MIAN @ MOHD. NAIMUDDIN MIYAN S/o Mohamaddin
Mian @ Mahamaddin Miyan R/o Village- Raghunathpur Ward no. 13, P.S.-
Chhauradano, Distt- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bibi Fatma W/o Niamuddin Mian @ Mohd. Naimuddin Miyan R/o Village-
Chhauradano Bara Bazar Ward no. 1, P.S.- Chhauradano, Distt- East
Champaran.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Shanti Bhushan Singh, Advocate
For the Opposite Party/s : Mr.Bishweshwar Ram, APP

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 18-01-2023 Heard the learned counsel for the petitioner and the

learned APP for the State.

The present petition is by way of second attempt at
the behest of the petitioner for grant of bail in connection with
Chhauradano PS case no. 338 of 2019 under Sections 341, 323,
379, 307, 498(A) of the Indian Penal Code and Section 3/4 of
Dowry Prohibition Act, inasmuch as the earlier petition of the
petitioner for grant of bail was disposed off by this Court vide
order dated 03.01.2022, passed in Cr. Misc. no. 40796 of 2021,
whereby and whereunder the petitioner was directed to be
granted provisional bail by the learned trial court, however,



subject to the condition that the petitioner shall participate in the mediation proceedings to be initiated by the learned trial court, whereafter the learned court below was directed to take a final call with regard to either confirming the provisional bail or revoking the same, subject to the final outcome of the mediation proceedings as also considering the merits of the case.

The case of the prosecution is that the marriage of the petitioner and the opposite party no. 2 i.e. the informant herein had been solemnized on 04.04.2014 as per Islamic rites and rituals, whereafter certain matrimonial disputes had arisen between the parties on account of non-fulfilment of the demand for dowry, resulting in the opposite party no. 2 being tortured and harassed by the petitioner and his family members and finally, the opposite party no. 2 was kicked out from her matrimonial home.

The learned counsel for the petitioner has submitted that on account of Covid-19 Pandemic, the petitioner could not participate in the mediation proceedings, after he was granted provisional bail, hence, his bail bonds were cancelled by the learned trial court on 26.08.2022 and since then he is languishing in custody, hence, a chance be given to the petitioner to settle the matter with his wife so that the



matrimonial dispute in question, may be resolved amicably.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record, this Court finds that though this Court had granted one opportunity to the petitioner to participate in mediation proceedings, upon being released on provisional bail, however, he failed to participate in the mediation proceedings, leading to cancellation of his bail bonds by the learned court below, nonetheless, this Court finds that a sympathetic view can be taken, in the facts and circumstances of the present case, on account of the situation, which was prevailing at that moment of time due to Covid-19 Pandemic. Under such circumstances, I deem it fit and appropriate to direct for release of the petitioner on provisional bail, subject to such conditions as may be deemed fit and proper to be imposed by the learned court of S.D.J.M. Raxaul at Motihari, East Champaran, in connection with Chhauradano PS case no. 338 of 2019.

It is further directed that the learned court below shall then engage the informant-wife and the petitioner in mediation



proceedings, with a view to settle the matrimonial disputes between them.

It is needless to state that the learned court below shall take a final call with regard to either confirming the provisional bail to be granted to the petitioner or revoking the same, subject to the final outcome of the mediation proceedings as also considering the case of the petitioner on merits, without being prejudiced by the earlier dismissal of his bail petition by the learned court below.

This Court also deems it appropriate to direct that in case, the petitioner does not adhere to the mandate of the present order as also does not participate in the mediation proceedings, his provisional bail shall be cancelled forthwith and he shall be taken into custody immediately, whereupon the learned court below shall be free to take appropriate action against the petitioner for disobedience of the orders of this Court.

The present petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

rinkee/-

U		T	
---	--	---	--

