

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.65437 of 2023

In

CRIMINAL MISCELLANEOUS No.58503 of 2022

Arising Out of PS. Case No.-1035 Year-2019 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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Deepak Kumar, aged about 28 years (Male), son of Harischandra Paswan,
resident of Purani Pani Tanki, BV College, P.S. Rukanpura, Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sunita Kumari wife of Deepak Kumar Village- Muravatpur Near, Durga
Sthan Ps- Desri Po- Mahnar Dist- Vaishali P/A- C/o- Surendra Bhagat
Village- Jagdishpur Po- Mohanpur Ps- Radhopur Dist- Vaishali

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :

Mr. Rohit Singh, Advocate

Mr. Avinash Shekhar, Advocate

Mr. Vijay Shanker Tewri, Advocate

Mr. Abhilasha Jha, Advocate

Mr. Piyush Ranjan, Advocate

For the Opposite Party/s :

Ms. Meena Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

6 26-07-2024 Heard Mr. Rohit Singh, learned counsel appearing
on behalf of the petitioner and Ms. Meena Singh, learned A.P.P.
for the State.

2. The present application has been filed for
modification of the order dated 29.04.2023 passed in Cr. Misc.
No. 58503 of 2022, whereby petitioner was allowed anticipatory
bail. One of the conditions therein was that petitioner will file a



joint petition duly sworn by him and his wife before the learned District Court stating therein that they will live together, within a period of three weeks and in that case, the petitioner was directed to be released on provisional bail, which was required to be confirmed after observing the conduct of the petitioner for a period of one year by the learned District Court.

3. Learned counsel appearing on behalf of the petitioner informs that the petitioner has failed to file a joint affidavit because of non-cooperation of opposite party no.2, who is his legally wedded wife and due to strained matrimonial relationship, petitioner has been made accused by her mainly under Section 498 A of the Indian Penal Code and Section 4 of Dowry Prohibition Act. Learned counsel as a result of non-compliance of the order by the O.P. No.2 has sought modification of the order for release the petitioner on any other condition.

4. Learned APP for the State submitted that the complaint discloses offence against the petitioner and his family members due to strained matrimonial relationship and the rage being private in nature, is not going to affect the society at large.

5. Considering the aforesaid submission, as well as, the



fact that this Court had directed to file a joint affidavit which was agreed by both the parties, however, now it is being informed on behalf of the petitioner that opposite party no.2 is not willing to file joint affidavit and faced with the said circumstances, the petitioner has not been able to surrender before the learned District Court in terms of order dated 29.04.2023, passed in Cr. Misc. No. 58503 of 2022, leading to the present modification application. I think, in the interest of justice, bar of Section 362 of the Code of Criminal Procedure should not come in a way.

6. The order is modified to the extent that the petitioner, who is husband of O.P. No.2, is directed to surrender before the learned District Court by filing an affidavit to the extent as what has been recorded in this order on behalf of petitioner and in that case, learned District Court is directed to accept the bail bond of the petitioner. The learned District Court, if so desire, may also summon the O.P. No.2 and seek counter affidavit from her, considering the fact that court should not refrain from giving opportunity to the husband and wife to reconcile their matrimonial relationship amicably.

7. The order dated 29.04.2023 passed in Cr. Misc. No. 58503 of 2022 is modified to the aforesaid extent only. Rest



parts of the order shall remain intact.

8. The modification petition is, accordingly, disposed
of.

(Purnendu Singh, J)

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