

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75410 of 2023

Arising Out of PS. Case No.-776 Year-2020 Thana- SASARAM NAGAR District- Rohtas

Sakir Ali Siddique @ Sakir Son Of Late Fazal Hashan Resident Of Mohalla-
Bada Dari, Ps -SASARAM, Distt- Rohtas

... .. Petitioner/s

Versus

1. The State of Bihar
2. Chandni Khatoon Wife Of Sakir Ali Siddique @ Sakir Resident Of Village-
Kabeer Colony, Ps- Sasaram, Distt- Rohtas

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ram Pravesh Nath Tiwari, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the O.P. No. 2	:	Mr. Babu Nandan Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 04-07-2024 Heard the parties.

2. The present application has been filed for quashing the order dated 28.08.2023 passed in Cr. Misc. No. 24 of 2023, by the learned Sessions Judge, Rohtas at Sasaram by which the modification petition filed by the petitioner for modification of the condition contained in order dated 16.02.2023 passed in Bail Petition No. 04 of 2023 in connection with Sasaram (T) P.S. Case No. 776 of 2020 has been rejected.

3. The petitioner was granted bail by the Sessions Judge, Rohtas at Sasaram vide order dated 16.02.2023 with a condition that the petitioner will pay Rs. 10,000/- every month as maintenance to the opposite party no. 2, who is his wife. The



petitioner has filed the modification petition by saying that he cannot comply the condition of payment of maintenance of Rs. 10,000/- as his financial condition was not good. The petitioner is the husband of opposite party no. 2 and is in jail for about four months.

4. Learned counsel for the petitioner has relied upon a judgment of the Hon'ble Supreme Court in the case of **Mahesh Chandra vs. State of UP & Ors.** reported in (2006) 6 SCC 196.

5. Learned counsel for the opposite party no. 2 has opposed the application and has submitted that the petitioner has enough income to pay the amount of maintenance as imposed by the learned Sessions Judge.

6. I have considered the submissions of the parties. The Hon'ble Supreme Court in the case of **Mahesh Chandra** (supra) has held as follows:

“3. As a condition for grant of anticipatory bail, the High Court has recorded the undertaking of the petitioners to pay to the victim daughter-in-law a sum of Rs 2000 per month and failure to do so would result in vacation of the order granting bail. We notice that the applicants before the High Court were the jeth and jethani of the victim. We fail to understand how they can be made liable to deposit Rs 2000 per month for the maintenance of the victim. Moreover, while deciding a bail application, it is not the jurisdiction of the court to decide civil



disputes as between the parties. We, therefore, remit the matter to the High Court to consider the bail application afresh on merit and to pass an appropriate order without imposing any condition of the nature imposed by the impugned order.”

7. Considering the law laid down by the Hon’ble Supreme Court, it is held that the condition imposed by the learned Sessions Judge while granting bail to the petitioner cannot be sustained. Therefore, this application is allowed.

8. The order dated 28.08.2023 passed in Cr. Misc. No. 24 of 2023 is hereby quashed.

9. Since the order rejecting the modiciation petition is set aside by this Court, the modification application filed by the petitioner vide Cr. Misc. No. 24 of 2023 before the learned Sessions Judge, Rohtas at Sasaram is allowed. The Magistrate is directed to accept the bail bond of the petitioner forthwith as directed by the learned Sessions Judge, Rohtas at Sasaram.

(Sandeep Kumar, J)

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