

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5186 of 2025

In
CRIMINAL MISCELLANEOUS No.75410 of 2023

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

Chandni Khatoon S/O Sakir Ali Siddique @ Sakir Village- Kabeer Colony,
P.S- Sasaram, Dist.- Rohtas-821115

... .. Petitioner/s

Versus

1. The State of Bihar Patna
2. Sakir Ali Siddique @ Sakir S/O Late Fazal Hashan R/O Mohalla- Bada Dari,
P.S.- Sasaram, Dist.- Rohtas.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Deepak Kumar, Advocate
For the State	:	Mr. Kumar Ranjit Ranjan, APP
For the O.P. No. 2	:	Mr. Dharmendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 19-09-2025 Heard the learned counsel for the petitioner, learned
APP for the State and the learned counsel for the O.P. No. 2.

2. This application has been filed for modification of
the order dated 04.07.2024 passed by this Court in Cr. Misc. No.
75410 of 2023.

3. The order dated 04.07.2024 passed by this Court in
Cr. Misc. No. 75410 of 2023 reads as follows:

“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.”*

4. The petitioner moved before the Hon’ble Supreme Court *vide* S.L.P. (Criminal) Diary No. 54144 of 2024 and the Hon’ble Supreme Court *vide* order dated 06.12.2024 has observed thus:

“We dispose of this Special Leave Petition by reserving liberty to the petitioner herein to seek recall of the order dated 04.07.2024 passed by the High Court of Judicature at Patna in Criminal Miscellaneous No.75410 of 2023. If such an application is filed by the petitioner herein, the same shall be



considered on its own merits and in accordance with law and as expeditiously as possible.”

5. The learned counsel for the petitioner has submitted that the order may be modified in the facts of the case as the O.P. No. 2 is not paying the maintenance amount though he is capable of doing so.

6. Per-contra, learned counsel for the O.P. No. 2 submits that the O.P. No. 2 is not capable of paying Rs. 10,000/- per month to the petitioner-wife, therefore, there is no infirmity in the earlier order of this Court. He further submits that the order of this Court cannot be modified/reviewed/recalled in view of the law laid down by the Hon'ble Supreme Court in the case of ***Bindeshwari Prasad Singh V/s Kali Singh***, reported in, ***(1977) 1 SCC 57***.

7. Moreover, in ***Gajanan Dattatray Gore V/s The State of Maharashtra & Anr., 2025 SCC OnLine SC 1571***, the Hon'ble Supreme Court has held thus:

24. Be that as it may, now we have made ourselves very clear that there shall not be a single order that the High Courts and the Trial Courts shall pass for grant of regular bail or anticipatory bail on the basis of any accused or his/her family members giving an undertaking to deposit a particular amount. The plea shall be decided strictly on merits in accordance with law. If the case is made out on merits the court may exercise its discretion and if no case is



*made out on merits the court shall reject the plea for regular bail or anticipatory bail as the case may be. **However, in any circumstances the High Courts or trial courts shall not pass a conditional order of regular bail or anticipatory bail.***

8. In view of the discussions made above, this application for modification is held to be not maintainable and the same is hereby dismissed.

(Sandeep Kumar, J)

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