

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19423 of 2018**

Arising Out of PS. Case No.-1131 Year-2013 Thana- KHAGARIA COMPALINT CASE
District- Khagaria

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Md. Gulfam Mustafa @ Md. Gulfam @ Md. Gulfan S/o Md. Hashim, R/o
Village- Sahashi, P.S.- Allouli, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bibi Sabiba Khatoon W/o Md. Gulfam D/o Md. Ekramul Haque, R/o
Village- Marar Dakchhin, P.S.- Morkahi, District- Khagaria.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Syed Mojibur Rahman, Advocate

For the Opposite Party/s : Mr. Braj Kishore Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

8 21-04-2026 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. This petition has been filed under Section 482 of Cr.P.C. for quashing the order dated 02.11.2017 passed by learned Sessions Judge, Khagaria (hereinafter referred to as 'Revisional Court') in Criminal Revision No. 60 of 2016, whereby the revision was allowed by setting aside the order dated 01.06.2016 passed by learned S.D.J.M., Khagaria in Complaint Case No. 1131(C) of 2013 by which the provisional anticipatory bail of the petitioner was confirmed which was granted by this Hon'ble Court *vide* order dated 13.05.2015 passed in Cr. Misc. No. 15549 of 2019.



3. It transpires from the records that in Cr. Misc. No. 15549 of 2015, this Court has granted the provisional anticipatory bail to the petitioner for one year with direction that the provisional anticipatory bail will be confirmed in three eventualities i.e. *“(i) if the matrimonial harmony is substantially restored, (ii) if the complainant fails to appear before the learned court below or (iii) if the complainant gets reluctant to reconcile the issue and it was further made condition that provisional anticipatory bail will not be confirmed if substantive proof is brought on record that the petitioner has performed second marriage.”*

4. It appears that *vide* order dated 01.06.2016, learned S.D.J.M., Khagaria confirmed the provisional anticipatory bail granted to the petitioner. In the said order, it is held that the petitioner had offered to keep his wife but the complainant denied to reside with her husband alleging that he has solemnized the second marriage. The Court also observed that there is no adequate proof of second marriage of the petitioner. Against the said order, the complainant filed a revision petition in the learned Trial Court stating that the learned S.D.J.M., Khagaria had confirmed the provisional anticipatory bail of the petitioner without appreciating that she has produced the



certificate granted by the *Gram Panchayat* with regard to the re-marriage of the petitioner. The learned Revisional Court in the impugned order dated 02.11.2017 held that photostat copy of certificate was produced by the complainant on record with respect to re-marriage of the petitioner and she has filed an affidavit also in this regard and accordingly, there is ample evidence that the petitioner has performed the second marriage and on this ground, criminal revision was allowed and the order of the learned S.D.J.M. was set aside.

5. Learned counsel for the petitioner submits that the petitioner has fulfilled all the conditions for confirmation of the provisional anticipatory bail granted by this Court and he has not solemnized his second marriage as alleged. Accordingly, on the basis of fake certificate, the cancellation of anticipatory bail granted to the petitioner is not justified and liable to be set aside. He next submits that photocopy of the *Panchayat* certificate is forged, fabricated and manufactured and the complainant has no valid proof that the petitioner has solemnized his second marriage. He also submits that the petitioner undertakes to cooperate in the trial.

6. Learned A.P.P. for the State submits that the complainant may prove in the trial that the petitioner has



solemnized his second marriage.

7. Having heard the learned counsel for the petitioner and learned A.P.P. for the State, it appears that the provisional anticipatory bail for one year was granted by this Court and on fulfilling the conditions, the learned S.D.J.M., Khagaria has confirmed the said bail, however, considering the fact that the photocopy of the certificate of the second marriage of petitioner was filed on record by the complainant, learned Trial Court has allowed the criminal revision petition.

8. When there is a dispute with respect to genuineness of the certificate, the same can be proved by the cogent evidence only. The petitioner has specifically denied his second marriage. The confirmation of the bail by the learned S.D.J.M., Khagaria is affirmed and the order dated 02.11.2017 passed by the learned Trial Court in Criminal Revision No. 60 of 2016 is set aside.

9. Accordingly, the present Cr. Misc. Application is allowed.

(Sunil Dutta Mishra, J)

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