



CRL Misc Appln No 189(T)2026.

ORDER

CR put up today for hearing.

Ld. Addl. PP Smti. J. Marak is present for the State.

Ld. Counsel Ms. B. Kharsahnoh, Adv is present for the petitioner Shri Bimol Hajong and submits that the accused/petitioner was enlarge on bail vide order dated 25.10.2022 passed by this Court in bail petition No. 66(T)2022 and the petitioner/accused by an application u/S 483(1)(b) BNSS has approached this Court for modification of the bail conditions dated 25.10.2022 imposed by this Court in bail application No. 66(T)2022.

The Ld. Counsel submits that petitioner/accused being the sole bread earner of the family is facing difficulties in securing a job within the jurisdiction of this Court, however has recently secured a job as a Mechanic/Technical at Thiruvananthapuram, Malinggere Kerela.

Ld. Counsel further submits that the bail conditions imposed by this Court has prevented the petitioner to pursue the employment and cause grave hardship to the petitioner/accused and therefore submits a prayer for modification of the bail condition order dated 25.10.2022 at

Serial No. 2 which reads as follows: (*“The accused shall not commit an offence similar to the offence allege. Shall not leave the jurisdiction of the Court without prior permission of the Court”*).

The Ld. Counsel conclusively submits that for the end of justice the prayer of petitioner/accused to modify the bail conditions be allowed and necessary order may be passed by this Court.

Ld. Addl. PP submits that she has no objection to the prayer of the petitioner/accused as long as he appears on every date fixed either in person or via VC.

This Court after hearing the parties and on perusal of the records would first reproduced extract of Section 403 BNSS which reads as follows:

S. 403. *Save as otherwise provided by this Sanhita or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error.*

The provision u/S 403 BNSS creates a bar for modification and rectification of an order passed in a criminal proceedings by the same Court. The Petitioner/accused has filed an application u/S 483(1)(b) BNSS which reads as follows:

Section 483(1) A High Court or Court of Session may direct,— (b) that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified.

The provision u/S 483(1)(b) BNSS is also restricted only to an order passed by a Magistrate. In an unreported judgment in **Mohmad Nazir Alam vs The State of Bihar on 8 August, 2025** the Hon'ble Patna High Court held at paragraph 11 observed as follows:

*11. Considering the aforesaid statutory provisions of law, I am of the opinion that Section 439(1)(b) of Cr.P.C. is the only provision which gives express power to High Court and Court of Sessions to modify and alter the condition imposed by Magistrate while granting bail, and **no such power has been given to the High Court and the Sessions Court to modify or alter the conditions of bail orders passed by it by a subsequent order.***

The judgment in Mohmad Nazir Alam (supra) is also clearly interpreted the provision of Section 483(1)(6) BNSS and its applicability, however, in light of the judgment passed In re, (2024) 10 SCC 685 : (2025) 1 SCC (Cri) 276 : 2023 SCC OnLine SC 483 at page 688 paragraph 9 which reads as follows:

9. With a view to ameliorate the problems a number of directions are sought. We have examined the directions which we reproduce hereinafter with certain modifications:

(5) In cases where the under trial or convict requests that he can furnish bail bond or sureties once released, then in an appropriate case, the court may consider granting temporary

bail for a specified period to the accused so that he can furnish bail bond or sureties.

(6) If the bail bonds are not furnished within one month from the date of grant of bail, the Court concerned may suo motu take up the case and consider whether the conditions of bail require modification/relaxation.

(7) One of the reasons which delays the release of the accused/convict is the insistence upon local surety. It is suggested that in such cases, the courts may not impose the condition of local surety.”

In view thereof, keeping in mind the essence of bail to balance the demands of personal liberty while also following the procedure under law, the application filed by the Petitioner/accused is accordingly allowed, the bail conditions dated 25.10.2022 at Sl. No. 2 imposed by this Court is accordingly relaxed and modified to the limited extent that the Petitioners/accused is permitted to leave the jurisdiction of this Court, however shall furnish the address of his place of employment and appear via VC on all date fixed till conclusion of Trial.

Criminal Misc Application No. 189(T)2026 is allowed and disposed.

Date: 24-07-2026

Mr Benzee Laitmon, MHJS MG00054
Additional Deputy Commissioner (J)