

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40243 of 2010

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Madan Mohan Sinha son of Late Indradeo Narain Sinha, Executive Director, Sansar Developer, resident of Mohalla- Sinha Library Road, Indra Bhawan, P.S.-Kotwali, District- Patna

.... Petitioner/s

Versus

1.The State of Bihar
2.Officer Incharge, Srikrishnapuri, Patna
3.D.G.P., Bihar, Patna (Director General of Police, Bihar, Patna)
4.Secretary, Law Department, Bihar, Patna
5.Abhay Kr. Singh son of Chakradhar Singh C/o B.K.Singh P.S.- Pirbabore, District- Patna -4

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shyam Sunder Pandey, Advocate
For the State : None

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

12 23-06-2015 The present application under section 482 of the Code of Criminal Procedure has been filed against the order dated 29.10.2001 passed by the learned Chief Judicial Magistrate, Patna in connection with Srikrishnapuri P.S. Case No. 148 of 1993 by which he has taken cognizance of the offences punishable order sections 406, 420 and 120B of the Indian Penal Code and summoned the petitioner and others to face trial. The petitioner has been made a named accused in the case. In course of investigation, he was granted provisional anticipatory bail by the learned Sessions Judge, Patna. However, the application for anticipatory bail was subsequently disposed of as infructuous as, in the opinion of learned Sessions Judge, Patna, there was no



apprehension of arrest of the petitioner in connection with the aforesaid case. Later on, the police submitted chargesheet against the petitioner and the learned Chief Judicial Magistrate, Patna took cognizance of the offences mentioned hereinabove and summoned the petitioner and others to face trial. As the petitioner failed to appear, the Magistrate concerned directed for issuance of non-bailable warrant of arrest and proclamation order against the petitioner. In course of trial, the Magistrate concerned issued order of attachment under section 83 of the Code against the petitioner.

Learned counsel for the petitioner has submitted that though the ordersheet of the Magistrate would show that summons and warrant were directed to be issued but the same were neither issued nor served upon the petitioner and, hence, the entire proceedings from the stage of summoning the petitioner is bad in law. He has further submitted that the petitioner is quite old and is suffering from several ailments. He has submitted that in case the order issuing non-bailable warrant of arrest and declaring the petitioner an absconder is set aside, the petitioner would appear before the concerned Magistrate within four weeks from today and raise all the points available to the petitioner at the stage of framing of charge.

Despite repeated calls, none appears on behalf of the

State.

Regard being had to the facts and circumstance of the case, the instant application is disposed of with a direction to the petitioner to physically appear before the court below within four weeks from today. In case the petitioner complies with the aforesaid direction, the order issuing non-bailable warrant of arrest as also the orders issued under sections 82 and 83 of the Code against him shall be deemed to be quashed. In case the petitioner fails to appear before the court below within the stipulated period, the present application would be deemed to be dismissed and in that case the court below shall take all coercive steps to ensure the attendance of the petitioner.

With these observations, the application is disposed of.

(Ashwani Kumar Singh, J)

Md.S./-

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