

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43215 of 2014

Arising Out of PS.Case No. -2524 Year- 2012 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

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Kumod Kumar Son of Sri B.P. Choudhary R/o Village + Post - Rasidpur,
P.S. - Bachhawara, District - Begusarai. Inspector cum Officer in charge,
Kotwali Police Station, Bhagalpur, present posted as Police Inspector
Mohania, P.S. - Bhabhua, District - Kaimur

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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With

Criminal Miscellaneous No.44280 of 2014

Arising Out of PS.Case No. -2524 Year- 2012 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

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1. Sanjay Biswas @ Sanjay Kumar Biswas Son of Shri Haldhar Biswas
resident of Mohalla- Medhichak, Police Station- Tilka Manjhi, District-
Bhagalpur Posted at the relevant time as S.H.O. Tetarpur, Police Station-
Tetarpur, District- Bhagalpur

2. Santosh Sharma @ Santosh Kumar Sharma Son of Pramod Kumar
Sharma resident of Mashak Chak, Police Station- Adampur, District-
Bhagalpur Posted at the relevant time as S.H.O. Adampur, Police Station-
Adampur, District- Bhagalpur

.... Petitioners

Versus

1. The State of Bihar

2. Md. Rustam @ Minu Son of Md. Yasin resident of village-
Khilafatnagar, Police Station- Habibpur, District- Bhagalpur

.... Opposite Parties

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Appearance :

(In both cases)

For the Petitioner : Mr. Ajay Kumar Thakur, Advocate

For the Opposite Party No.1: Mr. Ram Naresh Roy, APP

For the Complainant : Mr. Nihar Nandan Ambasta, Advocate

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

ORAL ORDER

11 09-07-2015

These are applications, made under Section 438 of
the Code of Criminal Procedure, seeking pre-arrest bail by the
petitioners, namely, Kumod Kumar (Cr. Misc. No. 43215 of
2014), and Sanjay Biswan @ Sanjay Kumar Biswas and Santosh

Sharma @ Santosh Kumar Sharma (Cr. Misc. No.44280 of 2014),
in connection with Complaint Case No.2524 of 2012 under
Section 384/387/120B/331/326/344/504 of the Indian Penal Code.

Perused the above applications and materials on
record including a copy of the order, dated 13.03.2014, passed, in
A.B.P. No. 385 of 2014, by the learned Sessions Judge,
Bhagalpur, dismissing the said application for pre-arrest bail.

Heard Mr. Ajay Kumar Thakur, learned Counsel for
the petitioners, and Mr. Ram Naresh Roy, learned Additional
Public Prosecutor, appearing on behalf of the State. Also heard
Mr. Nihar Nandan Ambasta, learned Counsel, appearing on behalf
of the complainant.

Pursuant to bailable warrants issued by order, dated
05.03.2013, in Complaint Case No.2524 of 2012 aforementioned,
the accused petitioners did not appear in the learned Court below;
rather, the petitioners filed petition, in the Court of learned Chief
Judicial Magistrate, on 18th March, 2013, seeking stay of the
proceedings of the complaint case aforementioned; but the petition
for stay was dismissed on 22.03.2013. The petitioners still did not
appear in the case aforementioned and carried the matter, by way
of revision, to the learned Sessions Judge. Further proceedings of
the complaint case aforementioned were stayed by the order of

learned Sessions Judge, on 05.04.2013. However, the revision was dismissed on 07.02.2014 and it was thereafter that non-bailable warrants of arrest were issued on 14.02.2014.

Thus, the catalogue of orders, as reproduced above, show that it was because of the default on the part of the petitioners that non-bailable warrants of arrest came to be issued.

In the circumstances indicated above, the petitioners, having not complied with the order of appearance passed by the learned Court below, cannot seek benefit of pre-arrest bail.

It is, now, submitted, on behalf of the petitioners, that the petitioners would appear in the complaint case aforementioned and would file therein necessary application seeking bail and, on these premises, the present applications seeking pre-arrest bail be allowed to be withdrawn.

Considering the matter in its entirety and in the interest of justice, these applications for pre-arrest bail are hereby disposed of as withdrawn.

It is, however, made clear that if the petitioners, on their appearance in the learned Court below, apply for regular bail, the learned Court below shall consider and dispose of the same in accordance with law bearing in mind the fact that since the case at hand is a complaint case, no investigation is pending and the

petitioners are required to face only trial.

If, therefore, the learned Court below finds that the petitioners’ appearance during trial can be secured, there shall be no impediment in granting bail to the petitioners.

With the above observations and directions, these applications shall stand disposed of.

(I. A. Ansari, J)

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