

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25800 of 2015

Arising Out of PS.Case No. -196 Year- 2014 Thana -GARDANIBAGH District- PATNA

Birendra Prasad Singh, son of Late Jai Nandan Singh, Resident of 3-C, Sneh Plaza ,
Sardar Patel Path, North S.K. Puri, Police Station, S.K. Puri, District- Patna.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

Appearance :

For the Petitioner/s : Mr. Bimal Kumar, Advocate
For the Informant : Mr. Janardan Prasad Singh, Sr. Advocate
Mr. Prakash Kumar, Advocate
Mr. Manoranjan Kumar, Advocate
For the State : Mr. Ansarul Haque, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 17-12-2015

Heard learned counsel for the petitioner and learned
counsel for the informant.

By way of this application under Section 482 of the
Code of Criminal Procedure (For short “Cr. P.C.”), the petitioner,
Birendra Prasad Singh, has assailed the condition imposed in the
order dated 12.03.2015 passed by the learned Additional Sessions
Judge-14th, Patna in B.P. No. 408 of 2015 arising out of
Gardanibagh P.S. Case No. 196 of 2014 registered under Sections
420, 420, 467, 468, 471, 406/34 of the Indian Penal Code whereby
bail has been granted to the petitioner on condition that he will

deposit Rs. 10 lacs as cash security along with a bail bond of the same amount with two sureties and will not create hindrance in any way in progress of the trial.

It is contended by the learned counsel for the petitioner that such an onerous condition cannot be imposed by the Court while granting bail. In support of his contention, he placed reliance on an unreported judgment of this Court passed in the matter of **Rajesh Biyani Vs. State of Bihar & Anr. [Cr. Misc. No. 28161 of 2015]**.

Learned counsel for the informant has contended that the petitioner is a man of criminal antecedent. He has cheated several persons and keeping in mind his past conduct, the court below has rightly imposed the aforesaid conditions for grant of bail.

Learned Additional Public Prosecutor for the State has also contended that there is no illegality in the order passed by the court below.

I have heard respective counsel for the parties and perused the record.

This Court, vide order dated 14.07.2015, passed in the case of Rajesh Biyani (supra) had occasion to examine the provisions prescribed under Sections 437 Cr. P.C. and 438 Cr. P.C. and had placed reliance on the decision of the Supreme Court in the

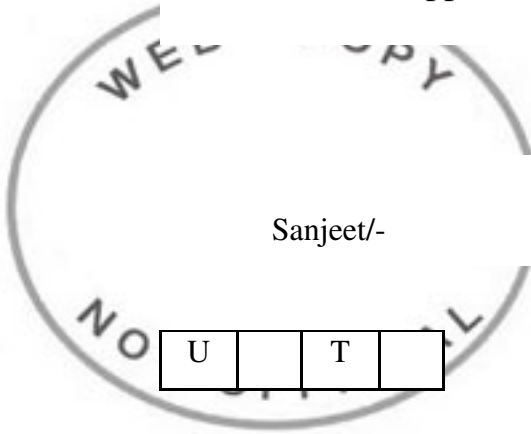


matters of **Munish Bhasin & Ors. vs. State (NCT of Delhi) & Anr.**, [(2009) 4 SCC 45]; **Gurbaksh Singh Sibbia etc. vs. State of Punjab**, [(1980) 2 SCC 565]; **Sandeep Jain vs. National Capital Territory of Delhi**, [(2000) 2 SCC 66]; **U. Palaniappan & Another vs. Sub-Inspector of Police**, [(2005) 10 SCC 464]; **Ramathal & Others vs. Inspector of Police**, [(2009) 12 SCC 721]; **Amarjeet Singh vs. State of NCT of Delhi**, [(2009) 13 SCC 769] and **Sumit Mehta vs. State (NCT of Delhi)**, [(2013) 15 SCC 570] for arriving at a conclusion that grant of bail in an exercise of discretion by the Court based on consideration of several factors and imposition of onerous and stringent conditions attached to the granting of bail are totally unknown to law.

Keeping in mind the facts of the present case and the law laid down in the matter of **Rajesh Biyani (supra)**, the impugned order dated 12.03.2015 cannot be sustained. Accordingly, it is set aside. The matter is remanded to the court below to consider the prayer for grant of bail of the petitioner afresh on merits in accordance with law considering the facts and circumstances of the case including the nature of the offence alleged.

The court below is directed to dispose of the aforesaid B.P. No. 408 of 2015 within a period of two weeks from the date of receipt/production of a copy of the order.

With the aforesaid observation and direction, the application is disposed of.



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(Ashwani Kumar Singh, J.)