

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1730 of 2015

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1. Deepak Kumar Tiwary Son of Birendra Tiwari Resident of Village and P.S. - Balathar, District - West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Smt Rekha Devi D/o Late Upendra Pandey, Village - Pakri Asli, P.S. - Sahebganj, District - Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Navendu Kumar

For the Opposite Party/s : Mr. C.Sen Prasad Singh (App)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 04-02-2015

In the instant application filed under section 482 of the Code of Criminal Procedure, the petitioner seeks modification of the order dated 27th June, 2014 passed in Cr. Misc. No. 26405 of 2014 by which provisional anticipatory bail was granted to the petitioner.

The operative part of the said order dated 27th June, 2014 reads as under :-

“In the meantime, in the event of arrest or surrender within a period of four weeks in the court below the petitioner shall be released on provisional anticipatory bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned S.D.J.M. West, Muzaffarpur in connection with Complaint Case No. 465 of 2011 (Tr. No. 1941 of 2013) subject to the conditions as laid down under Section 438(2) Cr.P.C.”

After service of notice, the matter was taken up for final disposal on 15th October, 2014. By order dated 15th October, 2014, the provisional anticipatory bail granted to the petitioner by order dated 27th June, 2014 was confirmed. The operative part of the order dated 15th October, 2014 reads as under :-

“Be that as it may, having regard to the facts and circumstances of the case, the provisional anticipatory bail granted to the petitioner by this Court on 27.06.2014 is hereby confirmed.”

The instant application for modification of the order dated 27th June, 2014 has been filed on 13th January, 2015.

It has been contended that since the petitioner was doing service as a driver of a private vehicle, he could not be informed about the order dated 27th June, 2014.

I find that even after four months when the matter was taken up on 15th October, 2014, the fact that the petitioner had not surrendered within four weeks from the date of receipt of the order in the court below was not brought to the notice of the Court.

In that view of the matter, I am not inclined to modify my order dated 27th June, 2014. The petitioner may surrender in the court below and seek bail. In case, the petitioner surrenders before the court below within two weeks from today,

the court below shall dispose of his bail petition keeping in mind that his prayer for anticipatory bail was allowed by this Court which he could not avail due to non-compliance of the direction to surrender without four weeks.

With the aforesaid observations, this application is disposed of.

(Ashwani Kumar Singh, J)

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