

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47503 of 2015

Arising Out of PS.Case No. -154 Year- 2015 Thana -DIHRINAGAR District- SASARAM
(ROHTAS)

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Santosh Kumar Singh, S/o Mahendra Singh, Prop. M/s Jai Maa Durga Agro Industries Makarayeen P.S.-Dihri, R/o Village- Makarayeen P.O.+P.S.- Dihri (Dalmianagar), District- Rohtas.

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, District- Rohtas at Sasaram.
2. The Managing Director, the Bihar State Food and Civil Supplies Corporation, Bihar at Patna.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate

For the Opposite Party/s : Mr. Satyaverat Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-10-2015

It is contended by learned counsel for the petitioner that there are certain typographical errors in the application. He is permitted to make necessary corrections in the application in the course of the day.

By way of this petition under Section 482 of the Code of Criminal Procedure, 1973 (For short 'Cr. P.C.'), petitioner, Santosh Kumar Singh, has assailed the conditions imposed in the



order dated 27.06.2015, passed by the learned 1st Additional Sessions Judge, Rohtas at Sasaram in A.B.P. No. 1114 of 2015 arising out of Dehri (Dalmianagar) P.S. Case No. 154 of 2015 registered for the offences punishable under Sections 406 and 420 of the Indian Penal Code, whereby the learned 1st Additional Sessions Judge, while allowing the application of the petitioner under Section 438 Cr. P.C. observed as under:-

“Considering the aforesaid facts, it is directed in the event of arrest or surrender in the court below within a month from this order with condition that before surrendering in the lower court in compliance of this order he will deposit Rs. 15,00,000/- (Rupees Fifteen Lacs) but Demand draft to the Department concerned and receipt of the same may be filed in the court then he will be released on furnishing bail bond of Rs. 10,000/- with two sureties of like amount each to the satisfaction of the learned court below, laid down u/sec 430(ii) of Cr. P.C. and rest arrear amount will be deposited by the petitioner-accused through D.D. to the Department concerned in five equal installment quarterly.”

It is contended that such an onerous condition cannot be imposed by the Court while granting privilege of anticipatory bail. In support of his contention, he has placed reliance on a judgment

of this Court passed in **Rajesh Biyani Vs. State of Bihar & Anr.**
[Cr. Misc. No. 28161 of 2015].

Learned counsel for the State concedes that such a condition cannot be imposed for grant of anticipatory bail by the Sessions Court. Similarly, learned counsel for the BSFC has also conceded that the order passed by the learned 1st Additional Sessions Judge, Rohtas at Sasaram cannot be justified in view of the order passed by this Court in the matter of Rajesh Biyani (supra).

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

This Court, vide order dated 14.07.2015, passed in case of Rajesh Biyani (supra), had examined the provisions prescribed under Sections 437 Cr.P.C. and 438 Cr. P.C. and had placed reliance on the decisions of the Supreme Court in **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]; **Sheikh Ayub Vs. State of M.P.**, [(2004) 13 SCC 457]; **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 decision of this Court in **Rajesh Biyani (supra)**, the impugned order dated 27.06.2015 cannot be sustained. Accordingly, it is set aside. The matter is remanded to the Court below to consider the prayer for anticipatory 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 requested to dispose of the aforesaid A.B.P. No. 1114/2015, giving reason for his decision as expeditiously as possible, preferably within a period of three weeks from the date of communication of this order.

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

(Ashwani Kumar Singh, J.)

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