

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5156 of 2016

Arising Out of PS.Case No. -39 Year- 2004 Thana -PAKARIBARAW District- NAWADA

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1. Satyendra Mahto @ Shailendra Mahto @ Satendra Mahto Son of Sri Jitu Mahto resident of village - Juri, Police Station - Pakaribarawan, District - Nawada

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prakash Kumar

For the Opposite Party/s : Mr. Sucheta Yadav(App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

2 12-02-2016

Heard learned counsel for the petitioner as well as

learned Additional Public Prosecutor for the State.

Petitioner happens to be husband of the deceased and, admittedly, after due investigation, police submitted final form showing case as mistake of fact in the year 2004 but the Chief Judicial Magistrate differed with the finding of the police and took cognizance of the offences punishable under section 304B, 201/34 of the Indian Penal Code.

Learned counsel for the petitioner submits that the deceased died of her ailment and after due inquiry police found the case as mistake of fact. It is further submitted that the son of the petitioner was aged about 2 ½ months at the time of death of wife of the petitioner and that was the reason petitioner could not surrender before the court below. It is further submitted that in the year 2011, petitioner approached this Court for grant of

anticipatory bail but he was directed to surrender before the court below vide order dated 30.03.2011 passed in Cr. Misc. No. 6757 of 2011 but even then petitioner did not surrender and subsequently, he was remanded in the present case on 3.9.2011 and since then he is languishing in jail custody.

Although, the above stated conduct of petitioner does not appear to be appreciable but taking note of the facts and circumstances of the case, particularly, keeping in mind that earlier police having conducted due investigation, found the accusation untrue, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Nawada in connection with Pakaribarawan P.S. Case No. 39 of 2004, subject to the condition that petitioner shall attend the trial court on each and every date for the period of seven months or till conclusion of his trial whichever ever is earlier and if he fails to do so on two consecutive dates without any reasonable cause being shown, the trial court shall be at liberty to cancel the bail bonds of the petitioner.

(Hemant Kumar Srivastava, J)

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