

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15175 of 2016

Arising Out of PS.Case No. -2183 Year- 2006 Thana -PATNA COMPLAINT CASE District-
BEGUSARAI

- =====
1. Deepak Singhania Son of Late Sohan Lal Singhania Resident of Plot No. C - 10, Panki Industrial Estate, P.S. - Panki, Town and District - Kanpur 208022.

.... Petitioner/s

Versus

2. The State of Bihar.
3. Aayushree Media Consultant having its Office at M/3, Jagtarni Tower Jamal Road, P.S. Kotwali District Patna through its Partner, Manoj Kumar S/o Sri Awadh Kishore Prasad R/o Aparajita Enclave, Jagdeo Path, P.S. Rukunpura Town and District - Patna.
4. Manoj Kumar S/o Sri Awadh Kishore Prasad R/o Aparajita Enclave, Jagdeo Path, P.S. Rukunpura Town and District - Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s :

Mr. Alok Kr. Agrawal, Adv.

For the Opposite Party/s :

Mrs. Priya Gupta, Adv.

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

ORAL JUDGMENT/ORDER

Date: 25-05-2016

With the help of this application, made under Section 482 of the Code of Criminal Code, the petitioner, who is the Managing Director of a company, has put to challenge the order, dated 20.02.2016, passed in Complaint Case No.2183(C) of 2006, by the learned Judicial Magistrate, 1st Class, Patna, rejecting the petitioner's application, made under Section 205 of the Code of Criminal Procedure, seeking exemption from personal appearance in the case.

Heard Mr. Alok Kumar Agrawal, learned Counsel,

appearing on behalf of the petitioner, and Mrs. Priya Gupta, learned Counsel, appearing on behalf of the opposite parties.

Perused the order, impugned in this application, as well as the materials on record.

In the impugned order, dated 20.02.2016, learned Magistrate has clearly mentioned that summons were sent against the accused twice; once, it was sent at his old address and, again, summons were sent by registered post on his new address, which was furnished by the complainant on 11.12.2012. However, as the accused did not appear, non-bailable warrant of arrest was directed to be issued.

Even after the non-bailable warrant of arrest was issued, the petitioner has chosen not to appear in the complaint case aforementioned and has, by filing an application, which was made in the learned trial Court, sought for being exempted from appearance on the ground that he lives in Kanpur.

Though it is true that the learned trial Court, has mentioned, in the impugned order, that the petitioner is neither an old man nor an ill person nor a Pardanashin lady. These are not sufficient reasons for declining an application made under Section 205 of the Code of Criminal Procedure, the fact, however, remains that no reason has been assigned and/or could be assigned by and on behalf

of the petitioner as to why the petitioner has not appeared and sought for bail before making any application for exempting him from personal appearance. To the pointed queries made by this Court, in this regard, no satisfactory answer has been given on behalf of the petitioner.

In the result and for the foregoing reasons, this application fails and is accordingly disposed of with the direction to the petitioner to appear in the complaint case aforementioned and, upon appearance, as directed hereinbefore, he may apply for regular bail. If such an application is made, the learned Court below shall do the needful in accordance with law. It is made clear that ordinarily, in a complaint case, an accused can be allowed to go on bail unless there is apprehension of his not being available for trial.

If, upon appearance of the petitioner, he is allowed to go on bail by the learned Court below, the petitioner shall remain at liberty to make an application, under Section 205 of the Code of Criminal Procedure, for dispensing with his personal appearance except on such date or dates, when his personal appearance may be warranted. If such an application is made for exemption, learned Court below shall consider and dispose of the same in accordance with law, bearing in mind that day-to-day appearance of the petitioner in the complaint may not be necessary or reasonable.

With these observations and directions, this application
is disposed of.

(I.A. Ansari, ACJ)

K.C.jha/-

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