

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.52375 of 2015

Arising Out of PS.Case No. -120 Year- 1992 Thana -NAUGACHIA District- BHAGALPUR

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Guru Charan Singh S/o Late Ranjeet Singh Resident of New Ranjeet Hotel, Hill
Cart Road, at and P.S. Siliguri, District - Darjeeling (WB).

.... Petitioner

Versus

1. The State of Bihar.
2. Nawal Kishore Sharma, Sipoy No. 1388068 son of Tarkeshwar Sharma resident
of Village - Ragunathpur, P.S. Pali Ganj, District - Patna.

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Ashish Sinha, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 27-06-2016

By way of the instant application preferred under
Section 482 of the Code of Criminal Procedure, 1973 (for short
“CrPC”), the petitioner has sought for quashing of the order dated
21st July, 2015 passed by the learned Judicial Magistrate, 1st Class,
Naugachhia in Naugachhia P. S. Case No. 120 of 1992, whereby he
has been declared as absconder after closing the case in terms of
Section 299 of the CrPC.

Mr. Alok Kumar Sinha, learned Senior Counsel for



the petitioner has submitted that no notice issuing summons and warrant (bailable /non-bailable) was ever served upon the petitioner as a result of which after submission of police report under Section 173 of the CrPC, the petitioner was totally unaware about the development of the case before the court below. He has further submitted that it is well settled that unless a compliance report is received by the court in respect of summons issued to the accused, the court cannot proceed to the next stage.

On query, as to whether or not the petitioner is ready to appear before the court, learned Senior Counsel has submitted that in case, protection is granted by this Court, the petitioner would certainly appear before the trial court within one week from today.

Keeping in mind the submissions advanced at the Bar, without going into the merit of the case, the impugned order dated 21st July, 2015 passed by the learned Magistrate is stayed for a week. In case, the petitioner appears before the court below within one week from today, learned Magistrate shall release him on bail on furnishing sureties and bond to his own satisfaction. However, in case, the petitioner fails to appear before the court, the order of stay of the impugned order dated 21st July 2015 granted by this Court shall stand automatically vacated and in that case all coercive

steps should be taken against the petitioner to ensure his appearance before the court.

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

(Ashwani Kumar Singh, J.)

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