

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34187 of 2016

Arising Out of PS.Case No. -247 Year- 2015 Thana -LAKHAURA District-
EASTCHAMPARAN(MOTIHARI)

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Mithu Kumar S/o Late Birendra Patel, resident of Village- Amar,
Chhatauni, P.S. Mufasil Motihari, District- East Champaran.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Bal Govind Sharma

For the Opposite Party/s : Mr. A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 03-10-2016 Heard Mr.Nafisuzzoha, learned counsel for the
petitioner and learned Addl. Public Prosecutor.

The sole petitioner has approached this Court,
invoking its inherent jurisdiction under Section 482 of the Code of
Criminal Procedure, with a prayer to quash an order dated
23.04.2016 passed in B.P. No.479/2016, whereby the petition filed
by the petitioner for deleting one of the conditions, which was
imposed while granting bail to the petitioner.

The case of the petitioner is that he was made
accused in Lakhaura (Mufasil) P.S. Case No.247/2015 registered
for the offence under Sections 461, 379 of the Indian Penal Code.
In the said case, by order dated 05.04.2016 passed in B.P. No.
479/2016, the learned 1st Addl. Sessions Judge, East Champaran,



Motihari directed for releasing him on bail with three conditions i.e. (i) one bailor of the petitioner will be class-III employee of Govt. of Bihar (ii) Another bailor will be family members of the petitioner who has sufficient movable property within tutorial jurisdiction of this court and (iii) the petitioner is directed to file an undertaking that he will physically appear before the learned court below each and every date. No petition u/s 317 Cr.P.C. will be allowed except in unavoidable circumstances.

One of the conditions, while granting bail, was prayed to be removed on the plea that the petitioner being a poor person as well as accused in a case of theft, there was possibility that no government employee would come forward to become a bailor. This was the reason that a petition was filed before the learned 1st Addl. Sessions Judge for deleting or substituting the first condition imposed in the order dated 05.04.2016. The said petition was rejected by the learned Sessions Judge.

It was submitted by learned counsel for the petitioner that despite the fact that bail order was passed by the learned 1st Addl. Sessions Judge on 05.04.2016, due to one of the conditions he has not been released on bail till date.

Considering the facts and circumstances of the case, particularly the difficulty, which has been shown by the petitioner

providing government employee for becoming a bailor, this Court is of the opinion that first condition imposed by the learned Addl. Sessions Judge is required to be substituted from the order dated 05.04.2016.

Accordingly, the learned court below is directed to release the petitioner on bail after allowing the petitioner to produce one of the bailors who would be only local resident in place of condition no.1 of order dated 05.04.2016 passed in B.P.No.479 of 2016 by learned Addl. Sessions Judge 1st, East Champaran, Motihari and other two conditions. Meaning thereby that the condition for providing government employee as bailor stands removed from the impugned order.

The petition stands allowed with indication that in place of 1st condition, the petitioner will provide one of the bailors, who can be a local person. It is made clear that the present order of bail may be given effect without any delay.

(Rakesh Kumar, J)

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