

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50126 of 2015

Arising Out of PS.Case No. -209 Year- 1999 Thana -BALIA District- BEGUSARAI

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1. Shashi Bhushan Singh s/o Late Ramchandra Singh of village Rahatpur, P.S. Ballia, District - Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar, Adv.

For the Opposite Party/s : Mr. Abhay Kr.Roy (App)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 26-04-2016

Heard learned counsel for the petitioner and learned counsel for the State.

2. By way of the present application preferred under Section 482 of the Code of Criminal Procedure (for short 'CrPC'), the petitioner seeks quashing of the order dated 07.08.2015 passed by the learned Sessions Judge, Begusarai in Cr. Revision No. 282 of 2015, whereby he has dismissed the revision application preferred against the order dated 24.03.2015 passed by the learned Judicial Magistrate, Begusarai in Balia P.S.Case No. 209 of 1999 by which the learned Judicial Magistrate has declared the petitioner absconder and issued permanent non-bailable warrant of arrest against him.

3. It has been contended by the learned counsel for the



petitioner that the petitioner has been made accused in a case instituted for bailable offences under Sections 279 and 337 of the Indian Penal Code. He was released on bail in connection with the said case on 10th November, 1999 by the police. Though the petitioner being on bail continued to attend the court proceedings, co-accused Tuntun Mahto did not appear before the court, as a result of which the record of the petitioner was separated vide order dated 3rd May, 2006. Subsequently, due to non-appearance of the petitioner, his bail bond was cancelled and a non-bailable warrant was issued against him vide order dated 9th August, 2007. It has been contended that in absence of any service report of the warrant of arrest, an attachment order was issued and the petitioner was declared absconder vide order dated 24th March, 2015. It has been further contended that the pre-requisites for declaring a person absconder under Section 299 of the CrPC have not been fulfilled and the learned Magistrate has also acted illegally in issuing processes against the petitioner under Sections 82 and 83 of the CrPC. It has been also contended that the petitioner has clean antecedent and has never been made accused in any other criminal case. As a matter of fact, he was indisposed on 9th August, 2007 as a result of which pairvi was not made on his behalf and his lawyer never informed him that his bail bond has been cancelled. Since witnesses were not appearing in the case between 1999 and July,

2007, the petitioner was totally depending on the lawyer engaged by him in the case to do pairvi on his behalf and it was because of the fault of the lawyer his bail-bond was cancelled and processes were issued against the petitioner. It is further contended that the petitioner undertakes to appear before the court on each and every date in future.

4. On the other hand, learned counsel for the State has contested the matter. He has submitted there is no illegality or irregularity either in the order passed by the learned Magistrate or in the impugned order passed by the Revisional Court.

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

6. Regard being had to the facts and circumstances of the case, without entering into the legality or illegality of the impugned order, in case the petitioner Shashi Bhushan Singh surrenders within two weeks from today, he shall be released on bail on furnishing bail bond of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, Begusarai in connection with Balia P.S.Case No. 209 of 1999, subject to the following conditions :

- (i) That one of the sureties must be a government servant and the other one shall be a close relative;
- (ii) That the petitioner shall give an undertaking on oath

that he shall attend the proceedings before the court
on each and every date; and

(iii) That the failure to attend the court on three consecutive
dates shall lead to the cancellation of bail-bonds and
forfeiture of sureties automatically.

7. With the aforesaid observations and direction, the
application is disposed of

8. Be it noted that the order passed in the present case shall
not be treated as a precedent.

(Ashwani Kumar Singh, J)

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