

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44406 of 2013

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1. Manoj Kumar S/O Late Basudeo Prasad Resident Of Mohalla- Mirza Dost, Mohammad Lane, Machlotganj, P.S- Gaya, Kotwali, District- Gaya.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Govt. Of Bihar, Patna.
2. The Director General Of Police, Bihar, Patna
3. The Superintendent Of Police, Gaya, District- Gaya.
4. The Station Head Officer, Gaya Kotwali, Police Station- District- Gaya.
5. The Sub- Inspector Of Police- Cum- Investigating Officer, Gaya Kotwali Police Station, District- Gaya.
6. The Drug Inspector, Gaya, District- Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar -Manglam
For the Opposite Party/s : Mr. Rajiv Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 10-08-2016

Though the criminal writ application has been converted into modification application but neither in paragraph no. 1 nor in the prayer portion the detail of modification sought for has been mentioned. However, the modification has been sought for with regard to the confirmation of the provisional bail granted vide order dated 31.01.2013 passed in Cr. Misc. No. 49611 of 2012.

Initially criminal writ application was filed for quashing the order dated 23.07.2013 passed by learned



Chief Judicial Magistrate, Gaya in Kotwali P.S. Case No. 52 of 2012, whereby learned Chief Judicial Magistrate, Gaya has refused to confirm the provisional bail of the petitioner on the ground that the house from which the seizure was made belongs to the petitioner as it is recorded in the name of the wife of the petitioner namely Munni Devi. The prayer was also made for quashing the report of Sub-inspector of Police-cum-I.O of the aforesaid case dated 16.07.2013, whereby it was submitted that the medicines were seized from the house situated in Mohalla-Mirza Dost Mohammad Lane which is recorded in municipal records in the name of the wife of the petitioner. Subsequently the petitioner converted criminal writ application into modification application, whereby prayer has been made for modification of the order dated 31.01.2013 passed in Cr. Misc. No. 49611 of 2012.

The petitioner was granted provisional anticipatory bail for a period of six months in a case registered for the offences punishable under Sections 189a)(vi), 18c and 27(b)(ii) of the Drugs and Cosmetic Act on the basis of submission made in para 8 of the petition that the house from which the seizure was made does not belong to the petitioner. The provisional bail was to be confirmed by learned Court below on making verification of the fact that the house from where the seizure was made does not belong to the petitioner. Consequently, learned Chief Judicial Magistrate, Gaya



conducted an enquiry and on the report received from the Investigating Officer and from the materials on record came to a finding that the house in question appertaining to holding No. 39 situated in Ward No. 19, Mohalla Mirza Dost Mohammad Lane, Makhlotganj, Gaya within the Gaya Municipal Corporation is recorded in the name of the wife of the petitioner Munni Devi. The Investigating Officer based his report on the report of the Executive Officer, Municipal Corporation, Gaya.

This Court, vide order dated 23.10.2013 directed the Superintendent of Police, Gaya to transmit a report as under what circumstances the place of seizure has been shifted from Bari Road near Shiv Mandir, Gaya to Mohalla-Mirza Dost Mohammad Lane, Machlotganj, Gaya in the report of the Sub-inspector of Police. The show cause of the Superintendent of Police, Gaya at Flag-B dated 22nd of September, 2015 reflects that in fact Mirza Dost Mohammad Lane, Makhlotganj is a lane of Bari Road near Shiv Mandir and the same is commonly known as Bari Road and that is why the seizure place has been indicated in the case diary and by the Investigating Officer as Bari Road, near Shiv Mandir.

In the circumstance, this Court is not inclined to modify the order dated 31.01.2013 passed in Cr. Misc. No. 49611 of 2012.

The application stands dismissed.

Let learned Court below consider the prayer

for regular bail of the petitioner, if the petitioner surrenders within a period of six weeks in connection with Gaya Kotwali P.S. Case No. 52 of 2012, pending in the Court of learned Chief Judicial Magistrate, Gaya.

(Dinesh Kumar Singh, J)

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