

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26830 of 2017

Arising Out of PS.Case No. -400 Year- 2016 Thana -KANKARBAGH District- PATNA

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Pawan Prasad Agrawal @ Pawan Agrawal son of Ravindra Prasad Agrawal,
resident of Mohallah- Ashok Nagar, between Road No. 12 and 13, P.S.-
Kankarbagh, District- Patna.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh, Advocate

For State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 11-09-2017

This application under Section 482 of the Code of Criminal Procedure (for short 'the CrPC') has been filed for quashing the order dated 03.04.2017 passed in ABP No.5042 of 2016 by the learned Session Judge, Patna whereby he has refused to extend the period for furnishing bail bond by the petitioner in connection with Kankarbagh P.S. Case No.400 of 2016.

2. The petitioner has been made accused in Kankarbagh P.S. Case No.400 of 2016 registered under Sections 147, 148, 323, 307, 379, 354, 427, 504 and 506 of the Indian Penal Code. He filed an application under Section 438 of the CrPC for grant of pre-arrest bail in the court of Session Judge, Patna. By order dated 24.08.2016, his application for grant of pre-arrest bail was allowed and the learned



Session Judge directed him to be released on bail, in the event of his arrest or surrender before court below within one month from the date of communication of the order, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the court. The petitioner failed to appear before the Court of Magistrate within the time stipulated in the order dated 24.08.2016. He, however, filed an application in the disposed of anticipatory bail petition for modifying the order dated 24.08.2016. The court below, noticing the fact that prayer for extension of period for surrender was made after about eight months from the date of order, refused to modify the order dated 24.08.2016 passed in ABP No.5042 of 2016, vide order dated 03.04.2017. Being aggrieved, the petitioner has challenged the order dated 03.04.2017 passed by the learned Session Judge, Patna in ABP No.5042 of 2016.

3. Learned counsel for the petitioner has submitted that the petitioner is a student and was living outside Patna and, as such, he could not appear within the stipulated time granted by the learned Session Judge, Patna. He has submitted that the petitioner is ready to surrender before the court in order to furnish bail bond as directed by the learned Session Judge, Patna. He has submitted that the court below ought to have allowed his prayer for extension of time.

4. I have heard learned counsel for the petitioner and



perused the record.

5. The petition for modification of the order was filed in a disposed of pre-arrest bail petition filed under Section 438 of the CrPC which is not permissible in law. Moreover, the learned Session Judge exercises concurrent jurisdiction under Section 438 of the CrPC. There being no apparent illegality or irregularity in the order impugned passed by the learned Session Judge, Patna, I see no reason to interfere with the order.

6. Accordingly, the application is dismissed.

7. However, if the petitioner surrenders before the jurisdictional Magistrate and seeks bail, the learned Magistrate is expected to keep in mind the fact that earlier the learned Session Judge had found the case fit for grant of pre-arrest bail.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.09.2017
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