

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29709 of 2017

Arising Out of PS.Case No. -409 Year- 2012 Thana -JAHANABAD District- JEHANABAD

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Homa Yunus daughter of Md. Yasub Yunus, resident of village-Irki, P.S.-
Jehanabad, District-Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. Md. Ghayasuddin son of Late Abdul Hamid, resident of village-Irki, P.S.-
Jehanabad, District-Jehanabad.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nachiketa Jha, Advocate
For the State : Mr. Sanjay Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-07-2017

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing of the order dated 15.06.2017 passed in Trial No.530 of 2017 (G.R. No.2346 of 2012) arising out of Jehanabad P.S. Case No.409 of 2012 whereby the learned Chief Judicial Magistrate, Jehanabad has cancelled the bail bond of the petitioner and directed for issuance of non-bailable warrant of arrest against her.

2. It is contended by the learned counsel for the petitioner that the petitioner is being prosecuted by her father-in-law, who had initially instituted a case, which was referred to the police pursuant to which an FIR was registered inter alia under Sections 420, 406 and



379 of the Indian Penal Code. It is contended that the bail was allowed on certain conditions and the learned Chief Judicial Magistrate, Jehanabad has cancelled the bail bond on the ground that the petitioner did not abide by one of the conditions imposed by this Court. He has submitted that the aforesaid finding of the Chief Judicial Magistrate, Jehanabad is erroneous in law as the petitioner had not flouted any of the conditions on which the pre-arrest bail was granted to her by this Court.

3. Learned counsel for the State has contested the matter and opposed the prayer made by the petitioner.

4. I have heard learned counsel for the parties and perused the record.

5. It would be evident from the order dated 08.01.2014 passed in Cr.Misc. No.37449 of 2013 by this Court that prayer for pre-arrest bail of the petitioner was allowed subject to the following conditions:

- (i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.
- (ii) That the petitioner will give an undertaking that she will receive the police papers on the



given date and be present on the date fixed for charge and if she fails to do so on two given dates and delays the trial in any manner, her bail will be liable to be cancelled for reasons of misuse.

(iii) That the petitioner will be well represented on each date and if she fails to do so on two consecutive dates, her bail will be liable to be cancelled.

6. From the impugned order dated 15.06.2017, it would transpire that the bail bond of the petitioner was cancelled on an application filed by the informant wherein a plea was taken that the petitioner had not given undertaking that she would receive police papers on the given date and be present on the date fixed for charge as directed by this Court in Cr. Misc. No.37449 of 2013.

7. At this juncture, be it noted that the petitioner continued on bail for over two and a half years on the basis of the order passed by this Court on 08.01.2014 in Cr.Mis. No.37449 of 2013.

8. There is no finding by the learned Chief Judicial Magistrate that the petitioner ever declined to receive the police papers. There is also no finding that she failed on the date fixed for framing of charge or delayed the trial in any manner. The ground on which the informant has sought for cancellation of bail granted to the



petitioner long back does not appear to be sound and reasonable.

9. In that view of the matter, the impugned order, dated 15.06.2017, cannot be sustained. Accordingly, it is set aside.

10. The petitioner is directed to appear before the concerned Magistrate on 31st July, 2017, in person. In case she appears on that date, she will be allowed to continue on bail bonds furnished earlier subject to the condition that she will file an undertaking that she is ready to receive the required documents as prescribed under Section 207 of the CrPC. In case the petitioner fails to appear on 31st July, 2017 before the court of Chief Judicial Magistrate, the court below shall be at liberty to cancel her bail bonds and issue processes afresh to secure her presence before the court.

11. With the aforesaid observations and directions, the application stands allowed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.07.2017
Transmission Date	24.07.2017

