

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.803 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

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Tej Narayan Singh son of Late Jagarnath Singh resident of village - Nagwan, Police Station - Simri, District - Buxar.

.... Petitioner

Versus

The State of Bihar through the Vigilance Department, Patna.

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No.-2, Adv.

For the Respondent/s : Mr. Ramakant Sharma, Sr.Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 16-11-2017

Heard learned counsel for the parties.

2. This writ application has been filed for quashing the order dated 27.04.2017 passed in Special Case No. 01/2011 arising out of Vigilance Case No. 01/2011 whereby the learned Special Judge, Vigilance 1st , Patna, has rejected the petition of the petitioner under Section 317 Cr.P.C. and simultaneously cancelled the bail bond and issued non-bailable warrant of arrest.

3. The impugned order reveals that on the previous day fixed in the case i.e. on 13.04.2017, the petitioner had surrendered in the case and the court granted bail with condition that the petitioner would remain present on the next date i.e. on 27.04.2017 when the impugned order



was passed. The non-compliance of the direction of the Court would be a good ground for cancellation of bail granted to the petitioner. However, the law is well settled by different judicial pronouncements, the composite order of rejection of petition under Section 317 Cr.P.C. and simultaneous issuance of non-bailable warrant of arrest should not be passed. The perusal of the provisions of Section 317 Cr.P.C. would make it abundantly clear that if the court thinks fit for the reasons to be recorded by him that personal attendance of the accused is necessary, he shall reject the petition under Section 317 Cr.P.C. for representation through lawyer and given an opportunity to the petitioner to remain physically present on the next date fixed in the case instead of taking coercive step on cancellation of bail already granted.

4. Learned counsel for the respondent submits that there is no infirmity in the impugned order because the learned Court-below had already directed the petitioner to remain physically present on the date when the impugned order was passed and the petitioner was not present, hence charge could not be framed and the trial hampered.

5. Considering the entire facts and circumstances of this case and for substantial justice, it is directed that the petitioner shall surrender on or before the



5th of December, 2017 before the learned Court-below and the court below shall treat the appearance of the petitioner as suo motu appearance, ignoring the fact that the bail bond of the petitioner was already cancelled. The court below shall proceed with the trial and shall not allow the absence of the petitioner till the charge is framed in the case nor the petitioner would seek any adjournment on the ground of his absence without framing of the charge.

6. With the aforesaid observation, this writ application stands disposed of.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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