

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37250 of 2016

Arising Out of PS.Case No. -65 Year- 2016 Thana -GAUNAHA District-
WESTCHAMPARAN(BETTIAH)

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1. Lal Babu Prasad son of late Radha Sah, resident of Village+P.O.-
Lakshnauta, P.S.- Gaunaha, District- West Champaran, Bettiah.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Manager, Bihar State Food Supplied Corporation, West
Champaran.

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Shashi Bhushan Kumar
For the State Mr. Panchanand Pandit
For opposite party no.2 Mr. Prabhat Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

04/ 10.01.2017 Heard learned counsel for the petitioner as well as learned
Addl. Public Prosecutor for the State.

Originally, this petition was filed under section 482 of the
Cr.P.C for modifying the order dated 10.6.2016 passed by learned
Sessions Judge, West Champaran, Bettiah in ABP no.915/2016 by
which petitioner was granted anticipatory bail in Gaunaha P.S. Case
no. 65/2016 with certain conditions. However, during the pendency
of this petition, the petitioner converted this petition into one under
section 440 sub clause (2) of the Cr.P.C.

The grievance of the petitioner is that in order dated
10.6.2016 passed in ABP no.915/2016 while granting anticipatory
bail to the petitioner, learned Sessions Judge imposed condition that
the petitioner shall deposit Rs 2, 93,206.33 within a month from the



date of order prior to his surrender and after the above stated deposit, he will surrender before the concerned court and furthermore, learned Sessions Judge directed the petitioner to file affidavit along with bail bonds that he will deposit rest amount after accounting and settlement in certificate case or by arbitration as given in the agreement within a year from the date of order and in case of non-compliance of the conditions, learned court below shall be at liberty to cancel the bail bonds.

Learned counsel for the petitioner submits that the above stated condition imposed by learned Sessions Judge appears to be not practicable because if the petitioner goes to deposit the above stated amount, he may be arrested by police or may be taken into custody by the concerned court and so far as second part of the aforesaid condition is concerned, the same is also not practicable because settlement and arbitration proceedings are not in the hand of the petitioner and the aforesaid proceedings may proceed for indefinite period and might not be concluded within one year from the date of the above stated order and, therefore, in the aforesaid circumstances, bail bonds of the petitioner might be cancelled by the court below.

Submission on behalf of the petitioner appears to be convincing. However, in course of hearing, learned counsel appearing for the petitioner submits that the petitioner shall deposit the above stated amount within three months from the date of his surrender and so far as second part of condition is concerned, the same should be treated as redundant.



Considering the aforesaid facts and circumstances as well as submissions of the parties, I think it proper to exercise inherent power of this court under section 482 of the Cr.P.C. Accordingly, order dated 10.6.2016 passed in ABP no.915/2016 is modified to this extent that the petitioner shall surrender before the concerned court within four weeks from today and if the petitioner does so, the concerned court shall release him on bail on furnishing bail bonds of Rs 10,000/- with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, West Champaran at Bettiah/ concerned court in Gaunaha P.S. Case no. 65/2016 subject to condition as laid down under section 438(2) of the Cr.P.C and furthermore, petitioner shall deposit the above stated amount of Rs 2, 93,206.33 within three months from the date of furnishing bail bonds, failing which the learned trial court/ court below shall be at liberty to cancel the bail bonds of the petitioner. So far as second part of condition is concerned, the same should be treated as redundant.

In the aforesaid manner, this petition stands disposed of.

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(Hemant Kumar Srivastava,J)

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