

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.46243 of 2016

Arising Out of PS.Case No. -90 Year- 2016 Thana -NAYA RAM NAGAR District- MUNGER

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BHOPAT YADAV @ PRAMOD YADAV SON OF LATE DORIK
YADAV RESIDENT OF HERU DIARA, P.S. KASIM BAZAR,
DISTRICT – MUNGER.

.... PETITIONER/S

VERSUS

THE STATE OF BIHAR

.... OPPOSITE PARTY/S

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Appearance:

For the Petitioner/s : Mr. Jitendra Nath Tiwary, Adv.

For the Opposite Party/s : Mr. Sri Zainul Abedin, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

5 09-02-2017 Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor.

Supplementary affidavit has been filed on behalf of
petitioner relating to his criminal antecedent having shown under para-
3 of the main petition counting nine cases pending since before.
Through supplementary affidavit, it has been placed that in all the
cases petitioner happens to be on bail so granted by the police, by the
learned Sessions Judge and even by the High Court. It has also been
submitted that co-accused had also been granted bail by this Court.
Furthermore, it has also been pleaded that petitioner remained under
custody for more than six months that means to say since 25.06.2016.
It has also been submitted that case has been compromised.

The learned Additional Public Prosecutor opposed the
prayer and submitted that criminal antecedent is one of the criteria for
consideration during course of prayer having been made on behalf of
petitioner for release on bail in terms of Section 437 of the Cr.P.C.

Admittedly, petitioner has got a chequered history.
Furthermore, while being on bail had misused the privilege by



indulging himself in similar kind of activity. That being so, the petitioner not only misuse the privilege of bail rather by having his indulgence in similar kind of activity speaks a lot about his conduct. The aforesaid theme has also been considered in ***Chandrakeshwar Prasad @ Chandu Babu Vs. State of Bihar & Anr. with State of Bihar Vs. Md. Shahabuddin reported in (2016) 9 SCC 443.***

Furthermore, Section 437 of the Cr.P.C. itself puts safeguard and for that sub-section 3 is quoted below:

“(1)

(2)

(3) When a person accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under Chapter VI, Chapter XVI or Chapter XVII of the Indian Penal Code (45 of 1860) or abetment of, or conspiracy or attempt to commit, any such offence, is released on bail under sub-section (1) the Court may impose any condition which the Court considers necessary-

(a) in order to ensure that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence, and may also impose, in the interests of justice, such other conditions as it considers necessary.”

From sub-clause 3(b) of Section 437 it is evident that court is being entrusted with the power to inflict a condition while granting bail that petitioner should not indulge himself in similar kind of activity and further, its violation will ultimately cost dear to him.

Considering the rival submission inconsonance with the



criminal antecedent coupled with the period of detention, petitioner Bhopat Yadav @ Pramod Yadav is directed to be released on bail on furnishing bail bonds of Rs.10,000/-(ten thousand) with two sureties of the like amount each, to the satisfaction of learned A.C.J.M., Ist, Munger in connection with Naya Ram Nagar (Safisarai) P.S. Case No.90 of 2016, subject to condition that one of the bailor should be a government servant who will give an undertaking along with the petitioner that henceforth petitioner will not indulge himself in similar kind of activity. If so, the learned lower court will forfeit the bail bond amount and further will take the petitioner under custody immediately.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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