

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1212 of 2018

Arising Out of PS.Case No. -195 Year- 2016 Thana -TEKARI District- GAYA

=====

Rakesh Kumar son of Ram Vinay Sharma, residenrt of Kushap Niwas,
Dalmiya Compound, Road No.2, Lakhibagh, Manpur, District- Gaya.

.... Petitioner/s

Versus

- 1. The State of Bihar.
- 2. The District Manager, Bihar State Food and Civil Supplies Corporation,
Gaya.

.... Opposite Party/s

=====

with

Criminal Miscellaneous No.45519 of 2017

Arising Out of PS.Case No. -127 Year- 2015 Thana -DUMRAUN District- BUXAR

=====

Binod Prasad son of Sri Shio Nath Sah, proprietor of M/S Bindhyawashni
Enterprises - Purana Bhojpur, resident of Mohalla-Purana Bhojpur, P.O.-
Purana Bhojpur, P.S.-Dumraon, District-Buxar.

.... Petitioner/s

Versus

- 1. The State of Bihar
- 2. The District Manager, Bihar State Food and Civil Supplies Corporation,
District-Buxar.

.... Opposite Party/s

=====

with

Criminal Miscellaneous No.45632 of 2017

Arising Out of PS.Case No. -111 Year- 2015 Thana -RAMGARH District- BHABHUA (KAIMUR)

=====

Prabhakar Kumar Singh, son of Nathuni Singh, resident of village- Sato
Ewati (Purani Kot), P.S.- Nuaon, District- Kaimur at Bhabhua.

.... Petitioner/s

Versus

- 1. The State of Bihar.
- 2. The District Manager, Bihar State Food & Civil Supplies Corporation
Limited, Kaimur at Bhabhua.

.... Opposite Party/s

=====

with

Criminal Miscellaneous No.47909 of 2017

Arising Out of PS.Case No. -97 Year- 2015 Thana -KUDRA District- BHABHUA (KAIMUR)

=====



Smt. Kiran Kumar @ Kiran Devi @ Kiran Kumari wife of Shatish Kumar Singh, resident of village- Khanethi, P.S.- Kudra, District- Kaimur at Bhabhua.

.... Petitioner/s

Versus

- 1. The State of Bihar.
- 2. District Manager, Bihar State Food Corporation, Kaimur at Bhabua.

.... Opposite Party/s

=====

with

Criminal Miscellaneous No.40980 of 2017

Arising Out of PS.Case No. -94 Year- 2015 Thana -RAMGARH District- BHABHUA (KAIMUR)

=====

Sugriv Gupta son of Ramavatar Gupta, proprietor of M/s Sonu Food Products (Akhuaudi, Ramgarh), resident of village- Bandipur, P.S.- Ramgarh, District- Kaimur (Bhabhua).

.... Petitioner/s

Versus

- 1. The State of Bihar.
- 2. The District Manager, Bihar State Food and Civil Supplies Corporation, Kaimur.

.... Opposite Party/s

=====

with

Criminal Miscellaneous No.46077 of 2017

Arising Out of PS.Case No. -112 Year- 2015 Thana -RAMGARH District- BHABHUA (KAIMUR)

=====

Sandeep Kumar Jaiswal son of Late Janam Prasad, proprietor of M/s Sarv Sri Mahavir Ji Rice Mill, resident of village- Nuao, P.S.- Nuao, District- Kaimur (Bhabhua).

.... Petitioner/s

Versus

- 1. The State of Bihar.
- 2. The District Manager, Bihar State Food and Civil Supplies Corporation, Kaimur (Bhabhua).

.... Opposite Party/s

=====

with

Criminal Miscellaneous No.43322 of 2017

Arising Out of PS.Case No. -69 Year- 2015 Thana -AADAPUR District- EASTCHAMPARAN(MOTIHARI)

=====

Gena Lal Prasad son of Late Bihari Raut, proprietor of M/s Amit Traders Adapur, resident of village- Garhariya Kala, P.S.- Adapur, District- East Champaran.

.... Petitioner/s



Versus

- 1. The State of Bihar
- 2. The District Manager Bihar State Food and Civil Supplies Corporation, Motihari.

.... Opposite Party/s

=====

with

Criminal Miscellaneous No.42986 of 2017

Arising Out of PS.Case No. -35 Year- 2015 Thana -RAMGARHWA District- EASTCHAMPARAN(MOTIHARI)

=====

Ravindra Kumar Chaurasiya, son of Shri Ganesh Prasad, proprietor- M/s Jai Mata Di Rice Mill, resident of village- Sihorw, Bairiya Tola, P.S.- Ramgarhwa, District- East Champaran.

.... Petitioner/s

Versus

- 1. The State of Bihar.
- 2. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd., Motihari, District- Motihari (East Champaran).

.... Opposite Party/s

=====

with

Criminal Miscellaneous No.30747 of 2017

Arising Out of PS.Case No. -69 Year- 2015 Thana -KUDRA District- BHABHUA (KAIMUR)

=====

Ram Kumar Singh, son of Sheshnath Singh, resident of village- Dandori, P.S.- Kudra, District- Kaimur (Bhabhua).

.... Petitioner/s

Versus

- 1. The State of Bihar.
- 2. The District Manager, Bihar State Food and Civil Supplies Corporation, Kaimur at Bhabhua.

.... Opposite Party/s

=====

Appearance :

(In Cr.Misc. No.1212 of 2018)

- For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate
- For the BSFC : Mr. Harish Kumar, Advocate
- For the State : Mr. Satyavarat Verma, APP

(In Cr.Misc. No.45519 of 2017)

- For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate
- For the State : Mr. Mayanand Jha, APP
- For the BSFC : Mr. Harish Kumar, Advocate

(In Cr.Misc. No.45632 of 2017)

- For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate
- For the State : Mr. Ashok Kumar, APP



For the BSFC : Mr. Harish Kumar, Advocate
(In Cr.Misc. No.47909 of 2017)
For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate
For the State : Mr. Sakir Ahmad, APP
For the BSFC : Mr. Harish Kumar, Advocate
(In Cr.Misc. No.40980 of 2017)
For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate.
For the State : Mr. Mayanand Jha, APP
For the BSFC : Mr. Nirmal Kumar, Advocate
(In Cr.Misc. No.46077 of 2017)
For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate
For the State : Mr. Mayanand Jha, APP
For the BSFC : Mr. Shailendra Kumar Singh, Advocate
(In Cr.Misc. No.43322 of 2017)
For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate
For the State : Mr. Pranav Kumar, APP
For the BSFC : Mr. Nirmal Kumar, Advocate
(In Cr.Misc. No.42986 of 2017)
For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate
For the State : Mr. Mayanand Jha, APP
For the BSFC : Mr. Shailendra Kumar Singh, Advocate
(In Cr.Misc. No.30747 of 2017)
For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate
For the State : Mr. Bhanu Pratap Singh, APP
For the BSFC : Mr. Harish Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 13-02-2018 As allegations made in the respective first information reports in different cases are identical and the issues involved in these cases are also common, they have been heard together and are being disposed of by a common order.

2. In Cr. Misc. No.1212 of 2018, a prayer has been made to quash the order dated 14.11.2017 passed by the learned Judicial Magistrate, 1st Class, Gaya in Tekari P.S. Case No.195 of 2016 whereby bail bond has been cancelled and non-bailable warrant of arrest has been issued.



3. In Cr. Misc. No.45519 of 2017, a prayer has been made to quash the order dated 13.07.2017 passed by the learned Chief Judicial Magistrate, Buxar in Dumraon P.S. Case No.127 of 2015 whereby bail bond has been cancelled and non-bailable warrant of arrest has been issued.

4. In Cr. Misc. No. 45632 of 2017, a prayer has been made to quash the order dated 30.05.2017 passed by the learned Additional Chief Judicial Magistrate, Bhabhua (Kaimur) in Ramgarh P.S. Case No. 111 of 2015 whereby bail bond has been cancelled and non-bailable warrant of arrest has been issued.

5. In Cr. Misc. No.47909 of 2017, a prayer has been made to quash the order dated 06.05.2016 passed by the learned Chief Judicial Magistrate, Bhabhua (Kaimur) in Kudra P.S. Case No.97 of 2015 whereby bail bond has been cancelled and non-bailable warrant of arrest has been issued.

6. In Cr. Misc. No.40980 of 2017, a prayer has been made to quash the order dated 30.05.2017 passed by the learned Additional Chief Judicial Magistrate, Kaimur at Bhabhua in Ramgarh P.S. Case No. 94 of 2015 whereby bail bond has been cancelled and non-bailable warrant of arrest has been issued.



7. In Cr. Misc. No. 46077 of 2017, a prayer has been made to quash the order dated 13.06.2017 passed by the learned Additional Chief Judicial Magistrate, Bhabhua (Kaimur) in Ramgarh P.S. Case No. 112 of 2015 whereby bail bond has been cancelled and non-bailable warrant of arrest has been issued.

8. In Cr. Misc. No.43322 of 2017, a prayer has been made to quash the order dated 07.07.2017 passed by the learned Sub Divisional Judicial Magistrate, Raxaul at Motihari in Adapur P.S. Case No.69 of 2015 whereby bail bond has been cancelled and non-bailable warrant of arrest has been issued.

9. In Cr. Misc. No. 42986 of 2017, a prayer has been made to quash the order dated 07.07.2017 passed by the learned Sub Divisional Judicial Magistrate, Raxaul at Motihari in Ramgarhwa P.S. Case No.35 of 2015 whereby bail bond has been cancelled and non-bailable warrant of arrest has been issued.

10. In Cr. Misc. No.30747 of 2017, a prayer has been made to quash the order dated 29.05.2017 passed by the learned Chief Judicial Magistrate, Kaimur (Bhabhua) in Kudra P.S. Case No.69 of 2015 whereby bail bond has been cancelled and non-bailable warrant of arrest has been issued.



11. It is submitted by Mr. Sumeet Kumar Singh, learned Advocate appearing for the petitioners that these cases are squarely covered by the judgment of this Court dated 09.10.2017 passed in **Ashok Kumar Singh vs. State of Bihar and Another (Cr. Misc. No.29168 of 2017) and analogous cases** and, thus, these cases may also be disposed of on the same terms.

12. Learned counsel appearing on behalf of the opposite parties raised no objection to the prayer made on behalf of the petitioners.

13. The operative part of the judgment dated 09.10.2017 passed in **Ashok Kumar Singh** (supra) and analogous cases reads as under:-

40. Having considered the rival submissions made on behalf of the parties and perused the order dated 28.02.2017 passed by the Supreme Court, I find substance in the submission made by the learned counsel for the Corporation.

41. From a plain language of the order dated 28.02.2017 passed by the Supreme Court, it would be evident that the order binds all concerned and not only the parties before the Supreme Court. In operative part of the order dated 28.02.2017, while declining to cancel the anticipatory bail/bail, the Supreme Court modified the order of grant of anticipatory



bail/bail adding certain conditions. It would be amply clear from the reading of condition no.(1) that it does not cover the matter which was challenged before the Supreme Court by the State of Bihar/Corporation but other identical matters also. It refers to “all the FIR(s)”. Further, condition no. (4) makes it clear that the direction is binding on all as the Supreme Court has directed that “all the accused” will be tried only at five places viz. Patna, Gaya, Chapra, Darbhanga and Purnea by the officers of the appropriate rank determined by the High Court. The High Court has also been given liberty to specify the area of jurisdiction of the said five courts by a public order. It has also been ordered that if required by the High Court, the State Government may sanction extra strength of officers with requisite infrastructure so that normal work of courts is not disturbed on account of the special arrangement for these cases. Furthermore, after condition no. (9), a general direction has been given to the trial court that on compliance of the order, if “any accused” is in custody, he will be granted bail in accordance with law. Apparently, the order passed by the Supreme Court is an order in rem in respect of the cases of identical nature filed before different police stations of Bihar.



42. Thus, I see no merit in the submission of the learned counsel for the petitioners that the aforesaid order would not bind the petitioners, who were not parties before the Supreme Court.

43. So far as the point of pledging of property for the value of paddy in lieu of bank guarantee, and non-requirement of bank guarantee in such cases are concerned, they were already raised before the Supreme Court by the rice millers, which is evident from the plain reading of the order of the Supreme Court, but the Supreme Court did not accept their contention and passed order for deposit of bank guarantee.

44. So far as the question of issuance of notice or summons before cancelling the bail and issuance of warrant of arrest by the courts below as argued by the learned counsel for the petitioners are concerned, in the opinion of this Court, no notice was required to be issued to the accused persons and no formal order of cancellation of bail was required to be passed by the trial court, as under condition no. (1), it has categorically been held that the accused in all the FIR(s) will ensure that bank guarantee, if not furnished, is furnished and if lapsed, is renewed within a period of one month from today failing which the anticipatory bail/bail granted will stand cancelled. As the petitioners



admittedly did not furnish bank guarantee within the period stipulated, their anticipatory bail already granted stood automatically cancelled by virtue of the order of the Supreme Court. Further, if the bail itself stood cancelled, I see no illegality in issuance of warrant by the courts below, as the offences alleged are warrant triable cases. In warrant triable cases, if the terms and conditions of anticipatory bail/bail are violated, the court is empowered to issue warrant of arrest. Therefore, the impugned orders cannot be faulted on that score too.

45. So far as the liberty granted to this Court to modify the directions issued by the Supreme Court is concerned, as the order of the Supreme Court has already taken effect and the pre-arrest bail granted to the petitioners already stood cancelled, it is not permissible for this Court to modify the directions issued by the Supreme Court. May be that in appropriate case, having regard to the individual fact situation, in view of the liberty granted by the Supreme Court, this Court could have modified any condition if the petitioner(s) would have approached this Court in time. However, such recourse would be impermissible once the order of the Supreme Court has taken its effect. I am also of the opinion that if the petitioners



are aggrieved by the order of the Supreme Court regarding deposit of bank guarantee, the only course left to them is to approach the Supreme Court and till the time the order of the Supreme Court stands, the petitioners, whether they were party before the Supreme Court or not have to abide by its orders.

46. Having regard to the discussions made above, the orders under challenge warrant no interference by this Court in exercise of power under Section 482 of the Code of Criminal Procedure, which is to be exercised sparingly just in order to prevent abuse of the process of law.

47. However, considering the fact that the Supreme Court itself has directed that on compliance of the directions given in its order dated 28.02.2017, if any accused is in custody, he will be granted bail in accordance with law, I would like to observe that in case the petitioners, whose pre-arrest bail stood cancelled, comply with the directions given by the Supreme Court and surrender before the court, they should be granted bail in accordance with law.

48. With the aforesaid observation, these applications stand dismissed.”

14. With consent of the parties, these applications are



also dismissed on the same terms as in the case of Ashok Kumar Singh (supra).

(Ashwani Kumar Singh, J)

Md.S./-

U		T	
---	--	---	--

