

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.586 of 2017

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Samar Sah @ Paltu Kumar Sah @ Paltu Sah, son of Sri Shankar Prasad Sah, resident of N.C. Chatterji Road, Mundichak, P.S. Tilkamanjhi, district Bhagalpur

.... Petitioner

Versus

1. The State of Bihar Through District Magistrate, Bhagalpur
 2. The Superintendent of Special Central Jail, Bhagalpur
- Respondents

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Appearance :

For the Petitioner : Mr. Akhileshwar Prasad Singh, Sr. Adv. with
Mr. Bimal Kumar, Adv.

For the Respondents : Mr. Partha Sarthy, GA IV

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

5 29-08-2017 The petitioner is accused in three different cases. The first case is Kotwali (Tilkamanjhi) P.S. Case No. 580 of 2016, vide Annexure 6. In that case the petitioner was allowed anticipatory bail by learned Sessions Judge, Bhagalpur, on 18.01.2017, vide A.B.P. No. 1806 of 2016, vide Annexure 3.

Second case was Kotwali (Tilkamanjhi) P.S. Case No. 699 of 2016, vide Annexure. In this case also the learned Additional Sessions Judge, I, Bhagalpur, granted anticipatory bail to the petitioner on 02.02.2017, vide Annexure 4.

Grievance of the petitioner, in the present writ application, is that in spite of the aforesaid orders of anticipatory bail in favour of the petitioner, the petitioner was wrongly remanded in both the cases, aforesaid.

Record reveals that the petitioner was apprehended by the police in connection with Kotwali (Tilkamanjhi) P.S. Case No. 59 of 2017 on 03.02.2017 and, thereafter, sent to judicial custody in connection with said case.

The father of the petitioner filed a petition in Kotwali (Tilkamanjhi) P.S. Case No. 580 of 2016 on 03.02.2017, itself, that petitioner has been arrested by the police in connection with Kotwali (Tilkamanjhi) P.S. Case No. 699 of 2016, which would be



evident from the order sheet at page 64. The order sheet of Kotwali (Tilkamanjhi) P.S. Case No. 699 of 2016, dated 04.02.2017, would reveal that the Court was informed that the petitioner has been arrested in connection with Kotwali (Tilkamanjhi) P.S. Case No. 59 of 2017 and sent to jail.

In both the cases, i.e., Kotwali (Tilkamanjhi) P.S. Case No. 580 of 2016 and Kotwali (Tilkamanjhi) P.S. Case No. 699 of 2016, prayer was made on behalf of the petitioner to remand him in the aforesaid cases for the reason that the petitioner was already in custody in connection with Kotwali (Tilkamanjhi) P.S. Case No. 59 of 2017 since 03.02.2017.

In the aforesaid circumstances, there is no substance in the submission of the learned counsel for the petitioner that once the petitioner was allowed anticipatory bail in Kotwali (Tilkamanjhi) P.S. Case No. 580 of 2016 and Kotwali (Tilkamanjhi) P.S. Case No. 699 of 2016, he could not have been remanded in these cases though he was in custody in connection with some other case.

There is no dispute that the arrest of the petitioner on 03.02.2017 was not in connection with 580 of 2016 or Kotwali (Tilkamanjhi) P.S. Case No. 699 of 2016 wherein anticipatory bail to the petitioner was granted rather arrest was in connection with Kotwali (Tilkamanjhi) P.S. Case No. 59 of 2017. Once the petitioner was arrested in connection with Kotwali (Tilkamanjhi) P.S. Case No. 59 of 2017, the order of anticipatory bail in other two cases was inoperative till the petitioner would have been released from custody in connection with Kotwali (Tilkamanjhi) P.S. Case No. 59 of 2017. However, in the meantime, prayer was made on behalf of the petitioner for production of the petitioner in connection with 580 of 2016 and Kotwali (Tilkamanjhi) P.S. Case No. 699 of 2016 to furnish bail bond in pursuance of pre-arrest bail granted to the petitioner in the aforesaid cases. Since, the



petitioner was in judicial custody in connection with Kotwali (Tilkamanjhi) P.S. Case No. 59 of 2017, the direction in the anticipatory bail order in other two cases to accept bail bond in the event of surrender or arrest was not in operation because the petitioner was already in custody. Hence, the petitioner was rightly remanded in Kotwali (Tilkamanjhi) P.S. Case No. 580 of 2016 and Kotwali (Tilkamanjhi) P.S. Case No. 699 of 2016 also. If the petitioner would have been released from judicial custody in connection with Kotwali (Tilkamanjhi) P.S. Case No. 59 of 2017, prior to his remand in these two matters the situation would have been different for acceptance of his bail bond in pursuance of anticipatory bail order passed in connection with Kotwali (Tilkamanjhi) P.S. Case No. 580 of 2016 and Kotwali (Tilkamanjhi) P.S. Case No. 699 of 2016.

After hearing the parties, I do not find any merit in this writ application.

Accordingly, it stands dismissed.

If the petitioner makes a prayer for regular bail in connection with of the aforesaid Kotwali (Tilkamanjhi) P.S. Case No. 580 of 2016 and Kotwali (Tilkamanjhi) P.S. Case No. 699 of 2016, the same may be considered favourably by the Court below taking into consideration that the petitioner was allowed anticipatory bail in both the cases and due to his arrest in connection with Kotwali (Tilkamanjhi) P.S. Case No. 59 of 2017 he could not furnish pre-arrest bail bond.

(Birendra Kumar, J)

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