

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.55687 of 2017

Arising Out of PS.Case No. -170 Year- 2004 Thana -DANAPUR District- PATNA

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Sri Mannu Prasad Son of Late Raghunath Prasad Mandal Resident of Azad Nagar
road no-2, P.S.-Kankarbagh, P.O.-lohia Nagar in the District of Patna, Bihar.

.... Petitioner

Versus

The State of Bihar through the Secretary Department of Law and Justice
Government of Bihar, Patna

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Gajendra Pratap Singh, Advocate

For the Opposite Party/s : Mr. Brajendra Nath Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 08-01-2018

By way of the present application preferred under
Section 482 of the Code of Criminal Procedure, the petitioner has
prayed for quashing the order dated 12.03.2013 whereby the learned
Judicial Magistrate, 1st Class, Danapur has cancelled the bail bond of
the petitioner in Danapur P. S. Case No. 170 of 2004.

2. The contention of the petitioner is that the case was
instituted on 03.04.2004 and since then, the petitioner regularly
appeared before the court below till 09.08.2012. However, no
witness could be produced on behalf of the prosecution. He
submitted that the petitioner being an old man aged more than 70



years failed to appear on three dates due to his ailment as a result of which his bail bond was cancelled vide order dated 12.03.2013 and subsequently, he has been declared absconder. He contended that the petitioner being a sufficiently aged man, is willing to participate in the proceeding and by putting him in jail even without there being any evidence against him, no useful purpose would be served. Learned counsel for the petitioner submitted that the petitioner is ready to appear before the court below on or after 18.01.2018.

3. On the other hand, learned counsel for the State submitted that though ration card annexed in the supplementary affidavit filed on behalf of the petitioner goes to suggest that he is 75 years old, the same cannot be a ground for holding the order passed by the court below to be bad. He submitted that as the petitioner failed to appear on three consecutive dates, the court below has rightly cancelled his bail bonds and took coercive steps against him.

4. Be that as it may, taking into consideration the old age of the petitioner, as also the fact that the petitioner regularly appeared before the court on more than 50 occasions since the date of institution of the FIR on 03.04.2014 till 19.08.2012 and there is no progress in the trial, in the opinion of this Court no purpose would be served by sending him to jail.

5. In that view of the matter, in the interest of justice, the



impugned order dated 12.03.2013 passed by the learned Judicial Magistrate, 1st Class, Danapur in Danapur P. S. Case No. 170 of 2004 is set aside. The subsequent orders by which the petitioner has been declared a proclaimed offender is also set aside. The application is allowed.

6. As the petitioner has undertaken to appear before the court below on or after 18.01.2018, he is directed to appear before the court concerned on 18.01.2018 and participate in the proceeding. In case he appears on 18.01.2018, he shall be allowed to continue on the bail bonds and sureties already furnished earlier. In case, the petitioner fails to appear before the court below on 18.01.2018, the learned Magistrate would be at liberty to cancel his bail bonds and take all coercive steps against him in order to secure his appearance.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.01.2018
Transmission Date	10.01.2018

