

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.60208 of 2018

Arising Out of PS. Case No.-78 Year-2018 Thana- ALINAGAR District- Darbhanga

Shyam Kumar Yadav S/o Yogi Yadav, R/o Vill.- Madhubani Tola, P.S.-
Rajnagar, District- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Jha

For the Opposite Party/s : Mr. Sri Rajendra Nath Jha

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 04-10-2018 The petitioner in the present case is seeking quashing of the order dated 23.08.2018 passed by learned Sessions Judge, Darbhanga who by the said order has modified his earlier order dated 01.08.2018 passed in B. P. No. 533 of 2018.

Learned counsel for the petitioner submits that earlier vide order dated 01.08.2018 the learned Sessions Judge, Darbhanga pleased to grant bail to the petitioner along with other co-accused on furnishing of bail bond of Rs. 10,000/- with sureties of the like amount each in connection with Alinagar P. S. Case No. 78 of 2018 subject to the condition that the bail bond would be furnished after one month from the date of custody.

It is further submitted that the learned Sessions Judge suo moto called upon the records and passed the order dated



23.08.2018 by which he has modified his own order dated 01.08.2018 and now a condition has been prescribed that the petitioner will be released subject to the condition that bail bound would be furnished after three months from the date of his custody. It is pointed out that the reasons shown for such modification is said to be a typographical error in the order dated 01.08.2018. However, it is the contention of the learned counsel for the petitioner that modification of the order by the learned Sessions Judge adversely affected the interest of the petitioner and it amounts to changing the order earlier passed by the court on 01.08.2018.

Learned counsel for the petitioner submits that in any case the petitioner has already completed about 2 and ½ months of custody.

Learned counsel for the State is present and submits that the learned Sessions Judge has only corrected the typographical error.

Having heard learned counsel for the parties, this Court is of the considered opinion that the learned Sessions Judge has committed an error of jurisdiction. The order dated 01.08.2018 a copy of which is available on the record clearly demonstrates that the subject to which the bail was granted that



the petitioner would furnish the bail bond after one month from the date of custody. If at all the learned Sessions Judge was of the view that there was a typographical error in the order dated 01.08.2018 and if that typographical error is corrected would adversely affect the interest of the petitioner, he was obliged to give a notice to the other side and only after giving an opportunity to the petitioner to know the reason for which the records are being put up, any such order could have been passed after due diligence and care. Instead the learned Sessions Judge, Darbhanga has suo moto got the record placed before him and altered the operative part of the order by now providing the bail bond would be furnished after three months from the date of custody. It amounts to reviewing his own order which is not permissible under Section 362 Cr.P.C. The order dated 23.08.2018 is therefore, set aside. The petitioner would furnish his bail bond in view of the order dated 01.08.2018.

This application is, thus, allowed.

(Rajeev Ranjan Prasad, J)

avin/-

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

