

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50405 of 2017

Arising Out of PS.Case No. -523 Year- 2013 Thana -GAYA MUFFSIL District- GAYA

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Jai Prakash Lal, S/o Late Lakhan Lal, Proprietor of Prakash Book Depot, Nawada,
R/o Village- Prajatantra Chpwk Main Road Nawada, P.S.- Nawada Town, District-
Nawada.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar No.1, Advocate

For the Opposite Party/s : Mr. Chandrasen Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 12-07-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. This application under Section 482 of the Code of
Criminal Procedure (for short 'Cr.P.C.') has been filed by the
petitioner for quashing of the order dated 11.09.2017 passed by the
learned A.C.J.M.,-4th, Gaya in Muffasil P.S. Case No.523 of 2013
whereby and whereunder the bail bond of the petitioner has been
cancelled.

3. It is submitted by the learned counsel for the
petitioner that in the instant case in which cognizance has been taken



under Sections 406 and 420 of the Indian Penal Code and Section 138 of the Negotiable Instruments Act, the petitioner was arrested and was remanded to judicial custody. He was granted bail vide order dated 28.01.2014 passed by this Court in Cr. Misc. No.313 of 2014. Thereafter, he filed an application for quashing of the order taking cognizance before this Court vide Cr. Misc. No.11980 of 2014, which was initially sent to Mediation Center of the Patna High Court and the further proceedings in the court below was ordered to be stayed, but ultimately, the mediation failed and the application preferred under Section 482 of the Cr. P.C. was dismissed vide order dated 24.07.2017. The order dated 24.07.2017 passed by this Court was received in the court of jurisdictional Magistrate on 16.08.2017 and, thereafter, on 26.08.2017, the case was fixed for framing of charge on 01.09.2017. On 01.09.2017, the application filed on behalf of the petitioner for dispensing with his personal appearance and allowing him to be represented through lawyer was accepted and he was directed to be physically present on 11.09.2017. However, as the petitioner was failed to appear in person on 11.09.2017, his application preferred under Section 317 of the Cr. P.C. was rejected and simultaneously his bail bond was also cancelled.

4. He submitted that non-appearance of the petitioner on 11.09.2017 was neither deliberate nor willful. Since there were



compelling reasons and unavoidable circumstances, the petitioner failed to appear on that particular date. He submitted that the petitioner is a law abiding citizen and is ready to appear on any date which this Court would fix.

5. *Per contra*, learned counsel for the State has opposed the application preferred by the petitioner. He submitted that there is no error in the impugned order passed by the learned Magistrate. Since the petitioner failed to appear on the date of framing of charge, the trial court has rightly rejected his application preferred under Section 317 of the Cr.P.C. and cancelled his bail bond.

6. I have heard learned counsel for the parties and carefully perused the record.

7. Without going into technicalities of the legal position, since the petitioner has undertaken before this Court that he would be appearing before the court on any date which this Court would fix, in the given facts and circumstances of the case, I deem it fit and proper to grant an opportunity to the petitioner to appear before the court and furnish fresh bail bond.

8. In that view of the matter, I direct the petitioner to appear before the jurisdictional Magistrate on 16th July, 2018. In case, the petitioner appears on 16th July, 2018, the Jurisdictional



Magistrate shall release him on bail on furnishing bail bond of Rs.5,000- (rupees five thousand) with two sureties of the like amount to his own satisfaction in Muffasil P.S. Case No.523 of 2013. In case, he fails to appear on 16th July, 2018, the learned Magistrate shall take all coercive steps in order to secure his attendance. The petitioner shall also be required to be present in person before the court on the date of framing of charges, which would be fixed by the learned Magistrate. In case, he fails to appear in person on the next date fixed for framing of charge, it would be open to the court below to cancel his bail bond.

9. Let the order be communicated to the court below forthwith.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13-07-2018
Transmission Date	13-07-2018

