

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1908 of 2017

Arising Out of PS.Case No. -44 Year- 2011 Thana –Thakurganj (Kurlikot), District- KISANGANJ
corresponding to S.T. No. 158 of 2016.

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1. Md. Mozamil Hussain @ Muzamil Husain, Son of Atul Rahman @ Attaur Rahman, resident of village- Saalwadi Bazar, P.S. Sukna, District- Darjeeling (West Bengal) owner of truck no. WB- 73B-2818.
2. Ram Sai Lohar, Son of Ratan Lohar, Resident of Village- Jangal Line 1 Tea Garden, P.S.- Maati Gada, District- Darjeeling (West Bengal) driver of truck no. WB- 73B- 2818.

.... Petitioner/s

Versus

1. The State of Bihar through Superintendent of Police, Kishanganj.
2. The Superintendent of Police, Kishanganj.
3. The Officer Incharge, Thakurganj Police Station, Kishanganj.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Utsav Kumar, Advocate.
For the Respondent/s : Mr. (A.P.P.)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 29-03-2018

In Paragraphs 8 & 9 of the application, petitioners have categorically submitted that they were not served with any notice regarding the date fixed in the matter and in absence of knowledge they could not appear on the date fixed after commitment of the records, as a result of which the bail bonds of the petitioners were cancelled.

2. Learned counsel also pointed out that despite there



being no service report of NBW the court below has directed for issuance of Processes U/S 82 & 83 Cr.P.C. It is further submitted that the petitioners undertake to surrender in the learned court below within a period of one week from today and, on such undertaking, the Court may grant them protection for one week only from execution of NBW and Processes U/S 82 & 83 Cr.P.C.

3. Learned counsel for the State has pointed out from Paragraph 7 of the Counter Affidavit that petitioner Md. Mozamil Hussain was physically present and other accused were represented through their advocates on 22.07.2016 when police papers were handed over and the record was committed to the Court of Sessions, however, on a query made by this Court, learned counsel is unable to find out from the Counter Affidavit placed on the record that the date fixed in the records after commitment of the case was ever communicated to the petitioners.

4. As the petitioners are able to make out a *prima facie* case whereunder it appears that the petitioners were not aware of the date fixed in the matter after commitment of the records, as they undertake to appear / surrender within one week from today, this Court is willing to protect them for one week from today by directing the State respondents not to execute NBW and Processes U/S 82 & 83 Cr.P.C. for a period of one week from today.



5. It is made clear that if the petitioners shall not surrender in the learned court below within the given period, the learned court below as also the State respondents shall be free to execute NBW and Processes U/S 82 & 83 Cr.P.C.

6. The application stands disposed of with the aforesaid observations and directions.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
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