

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23264 of 2018

Arising Out of PS.Case No. -83 Year- 2017 Thana -KANHAULI District- SITAMARHI

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1. Sudhan Kapar, son of Biltu Kapar
 2. Tej Narayan Kapar, son of Jagdevan Kapar
 3. Baidyanath Kapar, son of Julum Kapar
 4. Biltu Kapar, son of Julum Kapar

All are resident of Kanhauli Tola, P.S.-Kanhauli, Distrit-Sitamarhi.

.... Petitioners

Versus

The State of Bihar

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Jha, Advocate
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-08-2018

This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioners for quashing the order dated 07.12.2017 passed by the learned Session Judge, Sitamarhi in ABP No.1350 of 2017 whereby he has rejected the prayer of the petitioners to extend the time granted for furnishing bail bonds vide order dated 11.09.2017.

2. It is submitted by the learned counsel for the petitoners that the petitioners who have been made accused in Kanhauli P.S. Case No.83 of 2017 were granted pre-arrest bail by the learned Sessions Judge, Sitamarhi vide order dated 11.09.2017 with a condition to surrender within a period of four weeks and



furnish bail bonds of Rs.10,000/- each with two sureties of the like amount. As the petitioners are labourers and, at the relevant time, they were outside the State, they were not communicated by the conducting lawyer regarding the order passed by the learned Session Judge within time. Hence, they failed to appear before the court within time granted vide order dated 11.09.2017 in order to furnish bail bonds. When they came to know about the order passed by the court, they immediately filed an application for modification of the order dated 11.09.2017. The prayer made for modifying the period of surrender has been rejected by the impugned order dated 07.12.2017 by the learned Session Judge. It is submitted that the delay in appearing before the court was neither intentional nor deliberate rather the same occurred due to lack of communication and poverty of the petitioners.

3. On the other hand, learned counsel for the State submitted that the order passed by the learned Session Judge cannot be held to be bad. He submitted that the petitioners were granted pre-arrest bail but, they failed to appear before the court in time and belatedly an application for modification of the order was passed, which has rightly been rejected by the learned Session Judge.

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



5. Since there is no illegality in the impugned order dated 07.12.2017 passed by the learned Session Judge whereby he has rejected the prayer for extending the period of surrender, the impugned order cannot be quashed. However, considering the plea taken by the petitioners, in the ends of justice, I dispose of the present application with direction to the petitioners to surrender before the court of Magistrate on or before 4th of September, 2018 and pray for regular bail. In case, they surrender within time stipulated hereinabove, the court below shall consider their application for bail sympathetically and favourably keeping in mind that they had already been granted pre-arrest bail by the learned Session Judge. In case, they fail to appear within the time granted by this Court, the court below shall take all coercive steps in order to secure their presence before the court.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.08.2018
Transmission Date	28.08.2018

