

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26967 of 2019

Arising Out of PS. Case No.-109 Year-2018 Thana- JAMALPUR RAIL P.S. District-
Lakhisarai

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VIKKY KUMAR @ PUTLU Son of Rajendra Prasad @ Rajendra Sah,
Resident of village- Sadar Bazar Tiptop Gali, Ward No. 18, Police Station-
Jamalpur, District- Munger.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bipin Kumar, Advocate

For the Opposite Party/s : Mr. Mukeshwar Dayal, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL JUDGMENT

Date : 16-05-2019

1. Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. This application under Section 482 of the Code of
Criminal Procedure has been filed for quashing the order dated
11.3.2019 passed by the learned Sessions Judge, Lakhisarai in
Criminal Misc. No.11 of 2019 whereby learned lower Court
dismissed the modification petition filed by the petitioner.

3. It is submitted by the learned counsel for the
petitioner that the petitioner had filed bail petition for his
enlargement on regular bail mentioning not having any criminal
antecedent in para 3 of the bail petition. Aforesaid bail petition was
allowed by the learned lower Court vide order dated 21.01.2019



with condition inter alia that “one of the bailors shall file an affidavit to the effect that this petitioner is not involved in any other case except the present one as referred in para-3 of the bail petition and if he is found to be involved in any other case except the present one, the petitioner shall not be so released on the strength of this bail order.”

4. Subsequent to the aforesaid order petitioner filed a petition for modification of the aforesaid order to the effect that earlier to the aforesaid order petitioner was also booked in Jamalpur P.S. Case No. 64 of 2014 instituted for the offence u/s 457, 380, 411 of the IPC and Jamalpur P.S. Case No. 178 of 2014 instituted for the offence u/s 395, 392 of the IPC. But aforesaid Jamalpur P.S. Case No. 64 of 2014 ended into acquittal of the petitioner on trial. While the petitioner was not identified in Test Identification Parade in Jamalpur P.S. Case No. 178 of 2014. Hence, the petitioner was under bona fide impression that as he has been acquitted in the earlier case and has not been identified on TIP in the later one, aforesaid cases stood ended against him, and as such he has no criminal antecedent. Accordingly, he gave certificate in para-3 of the bail petition about not having any criminal antecedent. But later on appraising his learned counsel with the aforesaid facts he gave advice to him to disclose the



aforesaid antecedent albeit he has been acquitted and not identified in T.I.P. in the aforesaid cases. Then petitioner filed modification petition before the learned lower Court. But it was ultimately turned down. Petitioner has not given aforesaid criminal antecedent in para-3 of bail petition under the aforesaid bona fide impression and believe.

5. On the other hand, learned A.P.P. for the State opposed the aforesaid prayer of the petitioner.

6. From perusal of the record, it appears that the petitioner was allowed on bail by the learned lower Court vide order dated 21.01.2019 with condition inter alia that “one of the bailors shall file an affidavit to the effect that this petitioner is not involved in any other case except the present one as referred in para-3 of the bail petition and if he is found to be involved in any other case except the present one, the petitioner shall not be so released on the strength of this bail order” as the petitioner had given certificate in para-3 of the bail petition about not having any criminal antecedent. Subsequently petitioner filed a modification petition before the learned lower Court with the case that though two more cases have been lodged against him earlier, but in one of the case i.e. Jamalpur P.S. Case No. 64 of 2014 he was acquitted on trial and in another case i.e. Jamalpur P.S. Case No. 178 of



2014 he was not identified in T.I.P. Hence, he was under bona fide impression and believe that the aforesaid cases stood ended against him and now he has no criminal antecedent. So he had given certificate in para 3 of his said petition about not having any criminal antecedent. But subsequently on legal advise he was made aware that though the aforesaid cases he was acquitted and not identified in T.I.P. he must have disclosed the said criminal antecedent in para-3 of the bail petition. Then he filed modification petition before the learned lower Court which was rejected by the learned lower Court vide impugned order.

7. Having regard to the facts and circumstances of the case and in the interest of justice, the learned lower Court is directed to enlarge the petitioner on bail in view of the order dated 21.01.2019, subject to the conditions barring the condition No.2, as mentioned in the aforesaid order. Accordingly, the aforesaid order of the learned lower Court to the extent of rejection of modification petition of petitioner is quashed and this petition is allowed.

(Prakash Chandra Jaiswal, J)

T.Kr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.5.2019
Transmission Date	21.5.2019



