

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.37713 of 2018**

**In
CRIMINAL MISCELLANEOUS No.20830 of 2010**

Arising Out of PS. Case No.-300 Year-2010 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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Bhagwan Sah @ Bhagwan Tanti S/o Late Turo Tanti, R/o Mohalla- Nath
Nagar, Pipar, Panti, P.S.- Nathnagar, Distt.- Bhagalpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Gautam Kumar Kejriwal, Advocate
For the Opposite Party/s : Mr.Sri Tarkeshwar Nath Thakur, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

10 07-09-2020 Petitioner in this case is seeking modification of the

order dated 14.09.2010 passed in Cr. Misc. No. 20830/2010 by

which while disposing of the said application this court has inter

alia passed the following order:-

“In discussed circumstances petitioner’s arrest cannot be justified. So petitioner’s arrest is stayed till submission of seizure-cum-Zimmanama by prosecution agency or by investigating agency. In case same is produced or submitted in the court, petitioner should be informed and within a month to its information in case petitioner returns the thread as per seizure-cum-Zimmanama or dispoits its cost in cash or through Demand Draft, he will be allowed bail on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of C.J.M., Bhagalpur, in connection with Kotwali P.S. Case No. 300 of 2010 and in case of non-deposit of thread or its price his prayer amounts to be rejected.”

Learned counsel for the petitioner submits that over



the period now it has come on record that the seizure-cum-Zimmanama is not available with the Investigating Agency. In this connection attention of this Court has been drawn towards a letter dated 27.01.2011 (Annexure '7') written by one Digvijay Singh, Sub-Inspector of Police to the learned Chief Judicial Magistrate, Bhagalpur. In this letter he has stated that the previous investigating officer had not handed over to him seizure-cum-Zimmanama with the case records.

Learned counsel submits that now the police has submitted a charge-sheet and petitioner has been summoned to face the trial, his appearance is not being accepted in the learned court below by orally observing that unless the petitioner surrenders in the court and seeking bail, his appearance cannot be accepted.

On perusal of the various orders passed by the learned court below which have been enclosed with this petition this court finds that on 15.04.2017 one application has been filed on behalf of this petitioner, copy of the same is on the record. In this application he has stated that he is 81 years old and in terms of the order of this court in Cr. Misc. No. 20830/2010 his arrest has been stayed till submission of seizure-cum-Zimmanama by the prosecution agency or by the Investigating Agency. It is also



stated that till date the seizure-cum-Zimmanama has not been submitted by the Investigating Officer. He has also undertaken to deposit the value of the thread after submission of seizure-cum-Zimmanama by prosecution agency or by Investigating Agency.

In the aforesaid circumstance Mr. Kejriwal has submitted that unless the order dated 14.09.2010 is clarified, there is possibility that on filing of a surrender cum bail petition with the bail bonds, the same may not be accepted by the learned court below.

Mr. Ram Priya Saran Singh, learned A.P.P. for the State is present. It is his submission that in terms of the order dated 14.09.2010 unless the investigating agency produces the seizure-cum-Zimmanama, the condition imposed upon the petitioner to deposit the value of the thread would not be operational, hence this Court may in the present circumstance clarify this issue.

In the given facts and circumstances of the case, the order dated 14.09.2010 is clarified that in absence of seizure-cum-Zimmanama, the court below shall not insist the petitioner to comply with the later part of the order that is to deposit the cost in cash or through demand draft or to return the thread as



stated in the order dated 14.09.2010 and on the petitioner submitting a surrender application with the bail bond as stated in the order of this court the same will be accepted subject to the condition that as and when the seizure-cum-Zimmanama is produced before the learned court below, the petitioner shall undertake to deposit the value of the same in cash.

This modification application is disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

