

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73243 of 2019

Arising Out of PS. Case No.-106 Year-2012 Thana- KHODAWANDPUR District- Begusarai

SUNIL PASWAN @ ANIL PASWAN Son of Sri Bindeshwari Paswan
Resident of Village - Udaipur, P.S.- Roshra, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra

For the Opposite Party/s : Mr. Shyam Kumar Singh

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

3 19-02-2020 Heard the parties.

Petitioner has filed this Criminal Miscellaneous application for setting aside the order dated 11.06.2013 arising out of Khodabandpur P.S. Case No. 106 of 2012 passed by learned Chief Judicial Magistrate, Begusarai by which cognizance was taken against the petitioner under Section 366A of I.P.C.

Informant Bino Paswan has filed a written complaint before the Officer-in-Charge Police Station that his daughter Gamgam Kumari aged about 16 years went out on 13.06.2012 but thereafter she did not return and he instituted the case on 26.06.2012 against the petitioner and other family members, upon which FIR was lodged under Sections 363, 366A read with 34 of I.P.C.

It is submitted on behalf of petitioner that victim was



not kidnapped rather she went with petitioner on her own sweet will and they have also solemnized marriage and from said wedlock one male child is born, as such, order taking cognizance may be quashed on the basis of compromise and subsequent events. However, same was rejected by the court below as the offence is not compoundable.

This Court does not find any error or infirmity in the order passed by the trial court requiring any interference by this Court in its inherent jurisdiction under Section 482 of Cr.P.C.

I.A. No.1 of 2020 has been filed for amendment of criminal miscellaneous petition for adding in prayer portion to quash the order dated 17.12.2018 by which petitioner was declared absconder and his bail bond was cancelled.

Prayer is allowed.

It is submitted by the petitioner that he was granted anticipatory bail by this Court by order dated 3.4.2013 passed in Cr. Misc. No.5763 of 2013 and he was released on bail by the learned court below on 16.4.2013 after accepting his bail bond and after investigation, police submitted charge-sheet against petitioner, however, other accused were not sent up by the police and the learned court of C.J.M. took cognizance against the petitioner on 11.6.2013 and transferred the case to Judicial



Magistrate, 1st Class for trial who issued summons for his appearance on 23.7.2013 but on account of continued non-appearance of petitioner, the court issued non-bailable warrant and thereafter declared petitioner as absconder and issued permanent arrest of warrant by order dated 17.12.2018.

It is submitted on behalf of petitioner that although summons were issued to him and thereafter due to non-appearance, non-bailable warrant and thereafter he was declared absconder and permanent arrest warrant was issued against him but as a matter of fact, the summons or non-bailable warrant was never served upon him and from the order-sheet of the court also, it appears that service report was never received by the court with respect to valid service of summons or non-bailable warrant of his arrest for his appearance before the court.

Accordingly, the order dated 17.12.2018 is set aside and the learned court below is directed to grant bail to the petitioner upon furnishing fresh bail bond of Rs.20,000/- with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in Connection with Khodabandpur P.S. Case No.106 of 2012, with following conditions:-

- (1) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.



(2) Petitioner shall co-operate in the trial and shall be present on each and every date fixed by the court and his absence on two consecutive dates without proper and valid reason trial court shall have liberty to cancel his bail bond.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

Criminal miscellaneous petition is disposed of.

(S. Kumar, J)

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