

IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.10855 of 2021
In
CRIMINAL MISCELLANEOUS No.7378 of 2020

Arising Out of PS. Case No.-1184 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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ARVIND KUMAR SON OF LATE PARMESHWAR SINGH Resident of
Village - Jangalia Tola, P.S.- Danapur, Dist.- Patna.

... .. Petitioner

Versus

1. THE STATE OF BIHAR Bihar
2. HARENDRA RAI SON OF LATE SANGAM LAL RAI Resident of Village
- Gyaspur, P.S.- Maner, Distt.- Patna.

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Manoranjana Kumar, Advocate
For the Opposite Party/s : Mr.Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 28-07-2021 Learned counsel for the petitioner undertakes to remove

all the defects pointed out by the Stamp Reporter within four weeks

after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned APP for the State.

In the nature of the modification sought for no notice is
required to be issued to the complainant. Learned counsel for the
petitioner submits that while granting the privilege of anticipatory
bail to the petitioner subject to the condition under Section 438(2)
Cr.P.C. this Court has mentioned the conditions contained therein,
however, condition (i) would not apply in this case because it is a
complaint case.



This court is unable to understand as to why for this purpose a modification application has been filed. This court has only pointed out the conditions mentioned under Section 438 (2) Cr.P.C., if one of them is not applicable to the petitioner because it is a complaint case, it is obvious that the same will not apply.

Learned counsel further submits that in fact the petitioner is ready to deposit Rs. 1 lakh in the court below without prejudice to his defence but the order contains a condition whereunder the amount is to be paid to the complainant subject however without prejudice to the defence of the petitioner.

This Court has noticed from the order dated 28.2.2020 that in course of his submission learned counsel for the petitioner made a submission that petitioner is ready to pay Rs. One lakh which he had received from the complainant but without prejudice to his case. The word 'to pay' is very specifically mentioned while taking note of the submission of learned counsel for the petitioner in the order passed by this Court. This application for modification has been filed after almost one year from the date of order passed by which the petitioner was granted privilege of anticipatory bail. In the opinion of this Court the petition is not bona fide and it has been filed just to buy time. In the petition no reason much less any cogent reason has been provided for not filing the application for almost one year.

After some submissions learned counsel for the petitioner



having understood that in the garb of modification, this Court cannot accept the prayer of the petitioner as it would amount to review of the earlier order, learned counsel does not pray for reviewing the order of this Court as regards payment of rupees one lakh.

Learned counsel prays for extension of the period to surrender and submit the bail bond in terms of order dated 28.2.2020 passed in Cr. Misc No. 7378 of 2020.

Having regard to the facts and circumstances of the case, considering the submission of learned counsel for the petitioner this Court extends the period to surrender and submit the bail bonds by two weeks from today.

If the petitioner surrenders and submits his bail bond in terms of order dated 28.2.2020 within two weeks from today, he will be given the benefit of the order.

No further application for modification shall be entertained.

(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'.

