

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.22244 of 2021

In

CRIMINAL MISCELLANEOUS No.32473 of 2020

Arising Out of PS. Case No.-31 Year-2020 Thana- RAGHUNATHPUR District- Siwan

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1. Deepak Kumar Singh @ Deepak Kumar, Son of Nathuni Kunwar
 2. Upendra Kumar Singh @ Upendra Kumar, Son of Baijnath Kunwar
 3. Abhishek Kumar Singh @ Abhishek Kumar, Son of Baijnath Kunwar All are
Resident of Village - Fulwaria, P.S. - Raghunathpur, Distt. - Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Adv.

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 30-06-2021 This is an application seeking modification in the

order dated 12.02.2021 passed in Cr. Misc. No. 32473 of

2020.

Heard Mr. Krishna Prasad Singh, the learned

Senior Advocate for the petitioners and Mr. Ram Priya

Sharan Singh, the learned APP for the State.



On 12.02.2021, a submission was made on behalf of the petitioners that petitioner No. 1/Deepak Kumar Singh @ Deepak Kumar has been arrested and, therefore, it was prayed that his application be dismissed as having become infructuous. In fact, the petitioner No. 2/Upendra Kumar Singh @ Upendra Kumar had actually had been arrested.

Mr. Krishna Prasad Singh, the learned Senior Advocate for the petitioners has submitted that the petitioner No. 2, on his arrest, moved and was granted bail by the learned Court below.

As such, a prayer has been made for modifying the order dated 12.02.2021, referred to above, to the extent that the application with respect to petitioner No. 1 be not be treated as having become infructuous and the order with respect to petitioner No. 2 be declared to have been passed in confusion because of the incorrect submission made at the time of hearing of the bail application.

Mr. Singh has submitted that this wrong statement was not with any *mala fide* intention, but only because of miscommunication with respect to arrest of one of the



petitioners.

Considering the facts afore-noted, the order dated 12.02.2021, passed in Cr. Misc. No. 32473 of 2020, is modified to the extent that the order with respect to petitioner No. 2 is declared to be *non est* as it had already become infructuous on 12.02.2021 when this matter was first heard and this order was passed and is recalled.

The application with respect to petitioner No. 1, which was erroneously dismissed as having become infructuous, is modified to the extent that he, in the event of his arrest or surrender before the learned Court below within a period of four weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-VIII, Siwan in connection with Raghunathpur P.S. Case No. 31 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

While saying so, this Court has also taken note of the fact that all the injuries suffered by the victim have been



reported to be simple and that there is a counter version of the occurrence also.

This Court expects that in future, no such statement without doubly verifying the facts shall be made at the Bar.

The order dated 12.02.2021 is modified to the extent indicated above.

The application stands disposed off accordingly.

(Ashutosh Kumar, J)

Praveen-II/-

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