

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10752 of 2021

Arising Out of PS. Case No.-117 Year-2018 Thana- DUMARIAGHAT District- East
Champaran

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1. KISHMATI DEVI W/o Saral Sahani R/o village- Sarottar, P.S.-
Dumariyaghat, Distt.- East Champaran
 2. Shymbabu Sahani S/o Saral Sahani R/o village- Sarottar, P.S.-
Dumariyaghat, Distt.- East Champaran

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Dhannjay Kumar No 2,Advocate
For the Opposite Party/s : Mr.Bharat Lal,APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 12-03-2021 Learned counsel for the petitioners 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 petitioners and Mr.
Bharat Lal, learned APP for the State.

The petitioners in the present case are seeking set-
aside of the order dated 22.02.2020 passed in Cri. Misc. No. 33
of 2020 in Dumariaghat P.S. Case No. 117 of 2018 arising out of
Anticipatory Bail Petition No. 366 of 2019 whereby and
whereunder the prayer for extension of time to surrender and
submit bail bond in the court below has been rejected by
learned Sessions Judge, East Champaran, Motihari.

Learned counsel for the petitioners submits that in fact



the petitioners were granted pre-arrest bail by the learned Sessions Judge, East Champaran, Motihari vide order dated 02.03.2019 (wrongly typed as 02.03.2020 in the impugned order) in Anticipatory Bail Petition No. 366 of 2019.

Learned counsel submits that according to the order, the petitioners were supposed to surrender and submit their bail bonds within four weeks but the petitioners were not there in the State of Bihar. The petitioner no. 1 is a rustic pardanashin lady whereas petitioner no. 2 is an illiterate labour class person. Since they were outside the State of Bihar in connection with their livelihood, the Advocate Clerk could not inform them about the order passed by the learned Sessions Judge, East Champaran, Motihari and as such they could not surrender and submit their bail bonds within the prescribed period.

Learned counsel for the petitioners submits that in such circumstances when the prayer for extension of time was made the learned Sessions Judge, East Champaran should have considered the prayer of the petitioners with some compassion considering that the petitioners are under-privileged people who have to earn their livelihood outside the State of Bihar and it was not be possible for them to know the order passed by the Court.



Learned APP for the State has though submitted that the petitioners had moved before the learned Sessions Judge East Champaran with some delay, considering the facts and circumstances of the case, particularly that the petitioner nos. 1 and 2 are labour class people who were unable to surrender in the court below and submit their bail bonds within the prescribed period, this Court thinks it just and proper to exercise it's inherent power under Section 482 in the interest of justice. The impugned order contained in Annexure '1' to the present application passed in Cri. Misc. No. 33 of 2020 is hereby set-aside. The Miscellaneous petition is allowed.

If the petitioners surrender and submit their bail bonds within a period of four weeks from today, the same will be accepted by the learned court below in terms of the order dated 02.03.2019 passed in Anticipatory Bail Petition No. 366 of 2019.

This application stands disposed of 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'.

