

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24449 of 2020**

Arising Out of PS. Case No.-419 Year-2019 Thana- MAKHDUMPUR District- Jehanabad

KALTU YADAV @ KALUTAN YADAV @ KALUTAN @ AMIT KUMAR
@ AMIT YADAV Son of Rajan Yadav Resident of Village - Pura, P.S. -
Tekari, District - Gaya.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Kumar

For the Opposite Party/s : Mr.Zainul Abedin, APP

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

4 05-04-2021 Heard counsel for the parties.

This application has been filed for quashing of order dated 19.03.2020 passed in Spl. POCSO Case No. 64 of 2019 (arising out of Makhdumpur PS case No. 419 of 2019) whereby bail bond of petitioner was refused on the basis of petition dated 13.03.2020 filed on behalf of prosecution on the ground that subsequently chargesheet has already been submitted on 13.03.2020 and till filing of this petition bail bond has not been filed on behalf of petitioner.

It is the case of petitioner that as the chargesheet was not filed within the statutory period of 90 days, the petitioner moved an application for bail under Section 167(2) Cr.P.C on 12.03.2020 on the ground that no chargesheet has been



submitted against the petitioner and statutory period of 90 days has already expired.

From order dated 12.03.2020, it appears that on the said petition the court below called for a report from the concerned Office Clerk who also indicated that chargesheet has not been filed and stipulated period has already expired. On the aforesaid fact, the petitioner was directed to be released on bail under Section 167(2) of Cr.P.C by the court below. However, petitioner could not furnish the bail bond on 12.03.2020 and subsequently on 13.03.2020 chargesheet was submitted and on a petition filed by the prosecution, bail bond of petitioner was refused on the ground that in compliance of the order, petitioner could not file bail bond and subsequently, chargesheet has been submitted on 13.02.2020.

It is submitted on behalf of petitioner that it is not in dispute that chargesheet was not submitted within the statutory period of 90 days till 12.03.2020 and on this ground petitioner was granted statutory bail on 12.03.2020 by the court below and subsequent filing of chargesheet will not dilute or extinguish the right which accrued to the petitioner.

Counsel for the State opposed the prayer for bail and submitted that in terms of the order dated 12.03.2020 since



petitioner could not file bail bond before the court below and subsequently chargesheet has already been filed, as such, no interference is required by this Hon'ble Court.

It is an admitted fact in this case that chargesheet was not submitted within the stipulated period of 90 days till 12.03.2020 and on the basis of same petitioner was granted statutory bail by the court below on 12.03.2020. Thus, petitioner had already availed of his right under Section 167(2) of Cr.P.C and subsequent submission of chargesheet will not take away the **indefeasible** right of statutory bail which has already accrued in favour of the petitioner.

In view of the aforesaid facts and circumstances order dated 19.03.2020 is quashed and petitioner is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-1, Jehanabad in connection with Spl POCSO Case No. 64 of 2019 (arising out of Makhdumpur P.S. Case No. 419 of 2019, subject to following conditions:-

(i) The petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the



Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(ii) 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.

(Prabhat Kumar Singh, J)

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