

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46289 of 2021**

**In
CRIMINAL MISCELLANEOUS No.38864 of 2020**

Arising Out of PS. Case No.-213 Year-2020 Thana- BUXAR MUFFSIL District- Buxar

Mohan Yadav S/O Nanhak Yadav R/O Village- Mahdah, P.S.- Buxar (M),
District- Buxar

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Ajit Kumar,Advocate
For the Opposite Party/s : Mr.Zainul Abedin,APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 17-11-2021 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.
Zainul Abedin, learned APP for the State.

This application has been filed seeking modification

of the order dated 19.07.2021 passed in Cr. Misc. No. 38864 of

2020.

Learned counsel for the petitioner submits that Cr.

Misc. No. 38864 of 2020 was filed in connection with Buxar

(Muffasil) P.S. Case No. 213 of 2020 with a statement in

paragraph '3' of the application that the petitioner had no

criminal antecedent. According to him, the application was

placed on the portal of this Court through online filing on



19.10.2020.

Learned counsel submits that since the instruction was sought from the pairvikar of the petitioner few days back before filing of the bail application, at the time of instruction in fact the petitioner had no other case on his head but it appears that in course of drafting of the bail application and filing thereof, the petitioner had been taken on remand in Buxar (Muffasil) P.S. Case No. 104 of 2020 on 13.10.2020.

Learned counsel further submits that in fact the bail application of the petitioner in Buxar (Muffasil) P.S. Case No. 104 of 2020 was filed with a clear averment that the petitioner has got one criminal antecedent, the said bail application being Cr. Misc. No. 10465 of 2021 was also listed before this Court and vide order dated 20.05.2021, this court allowed the said application for bail. In the order of this Court, the fact that the petitioner has got one criminal antecedent is well noted.

Learned counsel submits that Cr. Misc. No. 38864 of 2020 was taken up after about two months from the date of disposal of Cr. Misc. No. 10465 of 2021, in the order dated 19.07.2021 it is recorded that the petitioner has got no criminal antecedent and this has happened because at the time of drafting of the bail application and filing thereof, within a period of one



week only the petitioner was taken in custody on remand in another case.

Learned counsel submits that in fact at the time of arguing Cr. Misc. No. 38864 of 2020, the fact that the petitioner has been taken on remand in one more case in which he has been granted bail by this Court was submitted.

Under these circumstances, it is submitted that the modification with regard to the criminal antecedent of the petitioner is required in the order dated 19.07.2021.

Mr. Zainul Abedin, learned APP for the State submits that clearly this Court being a court of records acts on the basis of the averments made in the petition and in this case since the petitioner had stated that he had no criminal antecedent, the order passed by this Court rightly contains so.

Having regard to the materials placed before this Court, this Court being conscious of it's view that this Court is a court of records and normally a modification application is not to be entertained for modification of an order which is based on the records, is of the considered opinion that the facts of this case being somehow different would require a consideration inasmuch as the fact is that within a short period of one week the petitioner was taken on remand when learned counsel was



preparing the petition and the same was placed on the portal of the High Court, it is a fact that the prayer for bail of the petitioner is allowed by this Court two months back in Cr. Misc. No. 10465 of 2021 taking note of the fact that the petitioner has got one criminal antecedent, therefore, in one way or other way records of this Court contains information that the petitioner had one criminal antecedent, the petitioner has already suffered by staying in custody for about four months despite grant of bail to him in the present case, therefore, this Court deems it a fit case in which the modification application be entertained.

Let the order dated 19.07.2021 passed in Cr. Misc. No. 38864 of 2020 be modified to the extent that on page '2' of the order in the first paragraph the words "...has got no criminal antecedent" be read as "has got one criminal antecedent". Rest of the order shall remain intact.

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'.

