

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8645 of 2021

Arising Out of PS. Case No.-28 Year-2002 Thana- SAHODARA District- West Champaran

PRABHU MAHTO @ PRABHU PATEL SON OF SRI BAIDYANATH
MAHTO @ BAIDYANATH PATEL RESIDENT OF VILLAGE-
MARTUJALA, P.S.- SAHODARA, DISTRICT- WEST CHAMPARAN.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma, Adv.

For the Opposite Party/s : Mr.Abhay Kumar Roy, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 23-06-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State through virtual court proceeding.

Learned counsel for the petitioner undertakes to remove
the defects within four weeks of resumption of normal court
proceeding. In the eventuality of non-removal of defects within
undertaken period, the office will place the matter before the
Bench.

The petitioner seeks bail in connection with Trial
No.2804 of 2019 arising out of Sahodara P.S. Case No.28 of
2002 registered for the offence punishable under Sections 364-A
of the Indian Penal Code.

As per the prosecution case, husband of the informant has
been kidnapped from her house by some miscreants, who came



lashed with guns in their hands. They took her husband towards Mehariya jungle for ransom. On brawl, villagers chased the culprits.

It is submitted by learned counsel for the petitioner that petitioner is quite innocent and has been falsely implicated this case. No such occurrence as alleged ever took place. He is neither named in the F.I.R. nor was apprehended on the spot. No incriminating article has been recovered from his conscious physical possession. From the evidence collected during course of investigation, it appears that the present case is literally of no evidence, and there is no material or evidence, either positive or clinching to show complicity of the petitioner in the alleged occurrence. After 20 days, the so called victim returned, and he in his statement has not disclosed name of any of the culprits involved in the said occurrence. Subsequently, the police came to know that gang of Manager Uraon of Nepal was involved in the said occurrence, and without any reason/justification, the police for the reason best known to them, submitted charge-sheet against the petitioner including other co-accused. It is further submitted that on 21.09.2005, non-bailable warrant was ordered against all the accused persons, and without receipt of service report of the non-bailable warrant, processes u/s 82/83



were ordered to be issued against the accused persons including the petitioner and the same was issued on 7.6.2007, and hurriedly on 29.06.2007, without service report of the processes, all the accused persons including the petitioner were declared absconders, and permanent warrants were issued against them, and the case-record was sent to record room. The petitioner was shocked and surprised, when he was arrested by the police on 28.09.2020 in execution of permanent warrant of arrest. The petitioner has no criminal antecedent and has been languishing in custody since 28.09.2020.

Learned APP for the State opposed the bail petition.

Considering the facts aforesaid that the processes u/s 82/83 were ordered to be issued hurriedly without service report of the processes (order sheet, annexed as Annexure-2 of the bail application) and the period of custody, the above named petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Sub-Divisional Judicial Magistrate, Bettiah, West Champaran, in connection with Trial No.2804 of 2019 arising out of Sahodara P.S. Case No.28 of 2002, subject to the following conditions:



(1) One of the bailors will be own close relative of the petitioner who will give on affidavit genealogy as to how he is relative to petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(2) The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(3) The petitioner shall remain physically present in the court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded and make himself available and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjani Kumar Sharan, J)

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