

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16441 of 2022

Arising Out of PS. Case No.-91 Year-2019 Thana- KOTWALI District- Patna

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Upendra Kushwaha, Son of Late Muneshwar Singh, Resident of Village -
Jawaj, P.s.- Mahnar, Distt.- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Chandra Shekhar Verma, Advocate
		Mr. Radha Mohan Pandey, Advocate
For the Opposite Party/s :		Mr. Ram Bilash Roy Raman, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 13-10-2022 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Chandra Shekhar Verma, learned counsel
for the petitioner and learned APP for the State.

The petitioner is invoking the inherent jurisdiction of
this Court seeking quashing of the part of the order dated
26.08.2021 passed by the Learned Additional Session Judge
XII, Patna in Anticipatory Bail Application No. 6406 of 2020, in
connection with Kotwaali P. S. Case No. 91 of 2019 (G.R. No.
850 of 2019) whereby the prayer made by the petitioner for
extension of time for furnishing bail bond has been allowed and
extended only for ten days with a condition that the petitioner



shall deposit Rs. 50,000/- in 'CM Flood Relief Fund' and only thereafter the petitioner shall be allowed to furnish his bail bond within next ten days.

The short facts which led to the filing of the present application is that the petitioner being National President of Rashtriya Lok Samta Party and Ex Member of Parliament, in whose leadership, there was a scheduled program of "Siksha Sudhar Aakrosh March" held on 02.02.2019 in which march was proceeded from J. P. Golamber, Gandhi Maidan to Raj Bhawan. In the procession some workers/protesters, started raising slogans and misbehaved with the passers by and police force. They also damaged vehicles and public property, caused injuries to several persons and police personnels. On the aforesaid accusation, Kotwaali P.S. Case No. 91 of 2019 has been registered against the petitioner and 250-300 unknown persons.

The petitioner apprehending his arrest filed Anticipatory Bail Application No. 6406 of 2020. The Learned Additional Session Judge XII, Patna having taken into consideration the materials available on record, allowed the anticipatory bail application of the petitioner on the condition mentioned therein, inter alia, under which bail bond was



accepted provisionally for three months from the date of communication of the order or till resumption of the normal functioning of the Court with further condition that the surety shall remain physically present for confirmation of bail bond.

It is submitted on behalf of the learned counsel for the petitioner that admittedly there was a Covid-19 pandemic, due to which the movement of the public at large was restricted as also due to non communication of the order between the lawyer and the petitioner and on account of these unavoidable circumstances, the bail bond could not be furnished by the petitioner within the prescribed period. However, after restoration of normal life, the petitioner filed a petition for extension of time for executing bail bond in compliance of the order dated 11.11.2020 passed by the Learned Additional Session Judge XII, Patna. While extending the time for executing of bail bond, an onerous condition has been imposed for depositing Rs. 50,000/- in “CM Flood Relief Fund”, which is under challenge.

On the other hand learned APP for the State submits that, prima facie, from the materials available on record, especially showing the latches on the part of the petitioner there is no infirmity in the order of the Learned Court below and it



appears that the petitioner knowingly violated the conditions imposed by the Learned Additional Session Judge XII, Patna.

Having heard the parties and considering the facts that on account of Covid-19 pandemic, there was a nationwide lockdown, resulting into suffering of the public at large and a difficult situation was prevailing at that point of time apart from the nature of accusation, the impugned order dated 26.08.2021 passed by the Learned Additional Session Judge XII, Patna is hereby partly modified only to the extent of depositing Rs. 50,000/- in “CM Flood Relief Fund”, to deposit Rs. 10,000/- in High Court Legal Services Committee, Patna and also extended two weeks further time from the date of communication of the order to furnish bail bond, on the terms and conditions as was provided by the Learned Additional Session Judge XII, Patna in Anticipatory Bail Application No. 6406 of 2020.

Accordingly, the present impugned order dated 26.08.2021 is modified to the extent indicated, hereinabove.

The present application stands allowed.

(Harish Kumar, J)

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