

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33085 of 2021

In
CRIMINAL MISCELLANEOUS No.6198 of 2019

Arising Out of PS. Case No.-237 Year-2015 Thana- PALASI District- Araria

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SOEB ALAM @ MD. SOEB ALAM Son of Late Alimuddin Resident of
Village - Dehti, P.S.- Palasi, District – Araria. Petitioner

Versus

1. The State of Bihar
2. Central Bank of India, Palasi Branch through the Branch Manager, District -
Araria. Bihar

... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr.Shashi Bhushan Kumar Manglam, Advocate
For the Opposite Party/s : Mr.Nand Kumar, APP
For the Bank : Mr. Prabhakar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 24-02-2022 Heard learned counsel for the petitioner and learned
counsel for the Bank.

Earlier, the anticipatory bail application of the petitioner was rejected by a Co-ordinate Bench of this Court vide order dated 12.09.2018 passed in Cr. Misc. No. 20619 of 2017. The petitioner preferred 2nd anticipatory bail application bearing Cr. Misc. No. 6198 of 2019 which was also heard by the Coordinate Bench of this Court and provisional bail was granted to the petitioner with certain conditions. It was further indicated that if the petitioner fails to comply with the said conditions as enumerated in order dated 03.04.2019, the said order shall be treated to have been withdrawn.

The present application has been filed for



modification of the order dated 03.04.2019 passed in Cr. Misc. No. 6198/2019. The said order was a consented order passed on the submissions made on behalf of the petitioner. The relevant part of the order is as follows:

“In view of the submission made above, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from today, be released on provisional bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned learned Chief Judicial Magistrate, Araria in connection with Palasi P.S. Case No. 237 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to condition that whenever the police will call the petitioner for investigation/interrogation, he will remain present and if he would not present himself, the privilege of grant of anticipatory bail shall be deemed to have been cancelled.

It is made clear that if the petitioner deposits the 50% of the up-to-date outstanding due within a period of six weeks from the date of his release on provisional bail, the provisional bail, granted today to the petitioner, will be confirmed but, in failure to deposit the same within the aforesaid period of six weeks from the date of his release, the present order, granting provisional bail to the petitioner, shall be treated to have been withdrawn.”

The aforesaid order passed by the Coordinate Bench is Annexure-1 to the present application. The total outstanding



dues against the petitioner was Rs18,03,000/-. When the order dated 03.04.2019 was being passed by the Coordinate Bench, it was submitted on behalf of the petitioner that he was ready to deposit 50 % of the said amount which came to Rs. 9,01,500/-. Certain conditions were also imposed by the Coordinate Bench in respect of deposit of the said 50 % of the outstanding dues amount. It has been submitted on behalf of the petitioner that the petitioner could not comply with the said consented order passed by the Coordinate Bench. But, later on, 50 % of the amount in question i.e. Rs. 9,01,500/- has already been deposited by the petitioner before the Bank. The said submission made on behalf of the petitioner has not been controverted by the learned counsel for the Bank.

It would be relevant to take note of the fact that the present application has been preferred in the year 2021 for modification of the order dated 03.04.2019 and from perusal of the said order, it appears that the Coordinate Bench had made it very clear that in failure to comply with the conditions as indicated, the said order “shall be treated to have been withdrawn”. Admittedly, the deposit made by the petitioner is not in compliance to the order dated 03.04.2019 and the same has been done after the expiry of the time period as indicated in



order dated 03.04.2019. Therefore, in the said circumstances, the order dated 03.04.2019 is treated to have been withdrawn.

In the said circumstances, since the order dated 03.04.2019 stands withdrawn, therefore, no modification of the said order could be made as the order dated 03.04.2019 in question already stands withdrawn.

Considering the aforesaid facts and circumstances, the present application for modification of order dated 03.04.2019 passed in Cr. Misc. No. 6198 of 2019 stands dismissed.

(Sudhir Singh, J)

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