

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53927 of 2022

Arising Out of PS. Case No.-840 Year-2016 Thana- BIHTA District- Patna

Sonu Kumar, Son of Umesh Kumar Nirala @ Umesh Rai, Resident of village
- Sarkuna, P.S.- Dulhin Bazar, District - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rahul Kumar, Advocate

For the Opposite Party/s : Mr. Ajay Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 15-11-2022 This petition has been taken up for out of turn hearing on a mentioning slip being moved on behalf of the petitioner that the petitioner has to appear in the examination conducted by Electricity Service Commission scheduled to be held on 22.11.2022.

Heard learned counsel for the petitioner and learned APP for the State.

Let the defect(s), if any, as pointed out by the office be removed within four weeks from today.

In the present case, the petitioner seeks bail in connection with Sessions Trial No. 230 (A) of 2017, arising out of Bihta P.S. Case No. 840 of 2016, registered for the alleged offences under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.



It is a case of misuse of privilege of bail. Since the petitioner failed to appear before the learned trial court on dates fixed, the learned trial court cancelled the bail bond of the petitioner.

The learned counsel for the petitioner submits that the petitioner was granted anticipatory bail as after filing of the charge sheet, the petitioner was not sent up for facing trial. But the learned trial court, differing with the police report, took cognizance against the petitioner. The petitioner has challenged the cognizance order by filing Cr. Misc. No.15434 of 2018 and during the pendency of the instant petition, the petitioner also filed the discharge petition which was rejected vide order dated 04.12.2019 by the learned trial court. The petitioner again moved before this Court for quashing the order dated 04.12.2019 vide Cr. Misc. No. 1841 of 2020, which was taken up and disposed of after hearing vide order dated 19.05.2022. But in the meantime, the bail bond of the petitioner was cancelled during the pendency of the quashing petition. The learned counsel further submits that on the relevant dates, the petitioner was duly represented before the learned trial court through his lawyer and made prayer for grant of time on the ground of pendency of the quashing application, but he was not



allowed time and his bail bond was cancelled. Against the said order, the petitioner again filed Cr. Misc. No.36335 of 2022 for quashing the said order and the said petition is still pending. In the meantime, the petitioner surrendered in the learned trial court on 16.08.2022. The petitioner is a meritorious student and has qualified competitive examination and he undertakes to remain present before the learned trial court on each and every date since non-compliance of the earlier order was neither deliberate nor intentional. Furthermore, charges have been framed in this case.

Learned APP opposes the prayer for bail submitting that the petitioner has misused the privilege of bail.

Having regard to the facts and circumstances and submissions made here-in-above and considering the period of custody of the petitioner along with framing of charge, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-VI, Danapur, Patna, in connection with Sessions Trial No. 230 (A) of 2017, arising out of Bihta P.S. Case No. 840 of 2016, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure



and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

V.K.Pandey/-

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(Arun Kumar Jha, J)

