

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51324 of 2023

Arising Out of PS. Case No.-213 Year-2021 Thana- MOHAMMADPUR District- Gopalganj

CHHABILA CHOUHAN S/O RAJ MANGAL CHOUHAN R/O Village-
Chhitouna, P.S- Kateya, Distt.- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sarvottam Parasar S/o Late Vipin Prasad R/o Village-PO-Hakam, PS-
Mahammadpur, District-Gopalganj

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhramveer, Advocate

For the Opposite Party/s : Mr. Nitya Nand Tiwary, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 21-12-2023 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. Learned counsel for the petitioner submits that in compliance of the order dated 03.11.2023, notices were issued on the opposite party no. 2. It is further submitted that from the office report dated 19.12.2023, it would manifest that the notice has been received by the opposite party no. 2 personally. It is next submitted that the opposite party no. 2 despite receiving the notice on 05.12.2023 chose not to appear in the case to contest.

3. Learned counsel for the petitioner submits that the petitioner was taken into custody in connection with Mohammadpur P.S. Case No. 213 of 2021 registered under Section 379 of the Indian Penal Code based on the confessional



statement of co-accused Chandan Kumar. It is further submitted that the petitioner is in custody since 06.03.2023 and had moved before the learned Sessions Judge, Gopalganj seeking regular bail by filing B.P. No. 446 of 2023. It is also submitted that the learned Sessions Judge, Gopalganj was pleased to grant regular bail to the petitioner by an order dated 15.05.2023 in B.P. No. 446 of 2023 with a condition that the bail bonds of the petitioner shall be accepted after the evidence of the informant.

4. Learned counsel for the petitioner submits that the petitioner is aggrieved by the condition imposed while granting regular bail to the petitioner by the learned Sessions Judge, Gopalganj wherein a condition has been imposed that the bail bonds of the petitioner shall be considered after the evidence of the informant as recorded in the impugned order. Learned counsel further submits that till date charges have not been framed, as such, the question of recording the evidence of the informant does not arise. It is next submitted that in the present case also the notices were issued and the opposite party no. 2 despite receiving notice personally chose not to appear which amply reflects that the opposite party no. 2 is only interested in keeping the petitioner behind bars. Learned counsel thus submits that the condition so imposed while granting regular



bail to the petitioner by the learned Sessions Judge, Gopalganj is harsh in nature for the reason that it is beyond the control of the petitioner who is in custody to ensure that the charges are framed in time and the evidence of the informant is also recorded. Learned counsel further submits that if the condition as contained in the order dated 15.05.2023 in B.P. No. 446 of 2023 is modified and the petitioner is released on bail in that event the petitioner will not abscond rather will co-operate in the trial.

5. Considering the submissions made by the learned counsel for the petitioner and the fact that the opposite party no. 2 despite receiving the notice chose not to appear in the case to contest, which amply reflects that the opposite party no. 2 is only interested in keeping the petitioner behind bars, the condition as imposed in the order dated 15.05.2023 in B.P. No. 446 of 2023 that the bail bonds of the petitioner shall be accepted after the evidence of the informant is hereby set aside.

6. Accordingly, the present application stands allowed.

7. Since the condition imposed by order dated 15.05.2023 in B.P. No. 446 of 2023 has been set aside, as such, the petitioner now will be released on bail in terms of the other



conditions imposed by the learned Sessions Judge, Gopalganj in
the order dated 15.05.2023 in B.P. No. 446 of 2023.

(Satyavrat Verma, J)

Kundan/-

U		T	
---	--	---	--

