

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48617 of 2022

Arising Out of PS. Case No.-135 Year-2021 Thana- PARIHAR District- Sitamarhi

Md. Quaisar @ Afjal @ Md. Qaisar @ Afjal @ Qaisar Ahmad Son Of Md. Nesar Ahamd @ Nesar Ahmad R/O Village- Ekdand, P.S.- Parihar, District- Sitamarhi

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Madhubala Verma, Advocate

For the Opposite Party/s : Mr. Bal Mukund Prasad Sinha, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 13-03-2023 Heard learned counsel for the petitioner and
learned APP for the State.

This application has been filed for quashing of the order dated 09.06.2022 passed by learned Judicial Magistrate, 1st Class, Sitamarhi, in Parihar P.S. Case No. 135 of 2021 (G.R. No. 3056 of 2021) by which the learned Magistrate has rejected the application of the petitioner to go to foreign country to earn his livelihood.

The petitioner had filed an application for going to Daman to earn his livelihood and he has produced a ticket before the Court below but it appears that the application of the petitioner has been rejected by the learned Court below on flimsy grounds.

It has been contended by learned counsel for the



petitioner that just because the petitioner is an accused in a criminal case, he is not stopped from earning his livelihood and if he wants to go outside the country, the Court below should have permitted him by imposing certain conditions before going out to the country for earning his livelihood.

It has also been contended by learned counsel for the petitioner that the petitioner is ready to give an undertaking before the Court below that he will appear at the time of framing of charges, he will not dispute the identity of the witnesses during the trial and the evidence of the witnesses may be recorded in his absence.

Learned counsel for the State has opposed the prayer of the petitioner.

Considering the submissions of learned counsel for the petitioner, this application is allowed with the following conditions :-

- (i) Before leaving the country, he shall give an undertaking before the Court below that he will be present at the time of framing of charges;
- (ii) the petitioner shall also give an undertaking that he will not dispute the identity of the



witnesses during the trial;

- (iii) the petitioner will also give an undertaking before the Court below that the evidence of the witnesses shall be recorded in his absence;
- (iv) the Court below shall give two months' prior notice to the petitioner for his appearance in the Court below at the stage of framing of charges and;
- (v) If the petitioner fails to abide by the aforesaid conditions, the Court below shall be at liberty to pass appropriate order including cancellation of bail bonds of the petitioner.

Consequently, the impugned order dated 09.06.2022 passed by learned Judicial Magistrate, 1st Class, Sitamarhi, in Parihar P.S. Case No. 135 of 2021 (G.R. No. 3056 of 2021) is hereby quashed and set aside and this application stands allowed.

(Sandeep Kumar, J)

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