

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3349 of 2023

Arising Out of PS. Case No.-611 Year-2022 Thana- BRAHMPUR District- Buxar

Pradeep Kushwaha @ Pradip Kumar, son of late Kamal Singh, R/O Village-
Saraura, P.S- Brahampur, District- Buxar

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Arun Kumar Gupta, Advocate

For the Opposite Party/s : Mr. Parmeshwar Mehta, APP

Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 28-02-2023 Heard learned counsel for the petitioner and
learned APP for the State.

This application has been filed for quashing of order dated 23.11.2022 passed in B.P. No.849 of 2022 in connection with Brahmpur P.S. Case No. 611 of 2022, by learned Additional Sessions Judge, IV, Buxar, by which the learned Magistrate has allowed the bail application of the petitioner with a condition that he will deposit Rs.4,00,000/- in Panchayat fund of concerned Gram Panchayat.

As per the prosecution case, the petitioner and other accused persons have embezzled the Government fund which was sanctioned for implementation of two Government projects.

Learned counsel for the petitioner submits that the



petitioner is in custody since 19.08.2022. He further submits that the condition which was imposed by the learned Magistrate at the time of granting bail to the petitioner could not be complied and therefore, he is languishing in jail.

Learned counsel for the petitioner has relied upon a decision of the Hon'ble Supreme Court in the case of ***Sandeep Jain Vs. National Capital Territory of Delhi*** reported in (2000) 2 SCC 66.

Considered the submissions of the parties.

It appears that the learned Magistrate while granting bail to the petitioner has imposed a condition that the petitioner shall deposit Rs.4,00,000/- in Panchayat fund of concerned Gram Panchayat, which appears to be onerous. The Hon'ble Supreme Court in the case of ***Sandeep Jain vs. National Capital Territory of Delhi*** (supra), has held that conditions for grant of bail cannot become so onerous that their existence itself is tantamount to refusal of bail.

Considering the aforesaid, this application is partly allowed.

Accordingly, the order dated 23.11.2022 passed in B.P. No.849 of 2022 by learned Additional Sessions Judge, IV, Buxar, is quashed to the extent of imposition of condition that



the petitioner will deposit Rs.4,00,000/- in Panchayat fund of concerned Gram Panchayat.

Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Buxar, in connection with Brahmpur P.S. Case No. 611 of 2022.

This is also subject to the condition that the petitioner would cooperate in the proceeding of the court below. In the event of failure to appear on two consecutive dates, the court below will be at liberty to pass appropriate order including cancellation of bail bonds of the petitioner.

With the aforesaid observations and directions, this application is partly allowed.

(Sandeep Kumar, J)

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