

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40132 of 2024

Arising Out of PS. Case No.-267 Year-2023 Thana- BIRPUR District- Supaul

Januka Shrestha D/O Bhoj Bahadur Shrestha, Permanent Resident Of Ward No 8, Municipality- Damak, District Jhapa, Nepal, Presently Residing At Birat Nagar, Ward No 4, Ps And District Morang (Nepal).

... .. Petitioner

Versus

The Union Of India through The Assistant Commandant, 45 Battalion, SSB D-Coy, Birpur, Supaul, India.

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Ashok Kumar Choudhary, Sr. Advocate
For the UoI	:	Mr. Amarendra Nath Verma, Sr. CGC
		Mr. Girijanandan Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 10-07-2024 Heard Mr. Ashok Kumar Choudhary, the learned senior counsel for the petitioner and Mr. Amarendra Nath Verma, the learned senior CGC appearing on behalf of the Union of India.

2. The petitioner is apprehending her arrest in connection with Birpur (Bhimnagar OP) PS Case No. 267 of 2023, FIR dated 19.08.2023, registered for the offences punishable under Sections 467, 468, 471 and 420 read with Section 34 of the Indian Penal Code.

3. According to the prosecution case, the informant, who was on duty at the authorized trade route Bhimnagar – Setobandh Check post along with five other constables, saw a



bus coming from Nepal towards India and during verification and process of entry, the driver of the bus produced permit documents which were found to be tempered.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and she has falsely been implicated in the present case merely on the ground that she is the owner of the vehicle in question (bus). He further submits that upon perusal of the FIR, it appears that the documents pertaining to permission for entry of the said vehicle into the Indian territory was not available with the driver of the bus and the driver of the bus was having the registration no. of Nepal. He further submits that although the petitioner is owner of the vehicle in question, but she had no knowledge whether the driver of the said vehicle has obtained the requisite permission from the Indian Embassy or not.

5. The learned counsel appearing on behalf of Union of India and the learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner and submits that petitioner is the owner of the vehicle in question and the responsibility of acquiring the necessary permission from the Indian Embassy falls upon her.

6. Considering the aforesaid facts and circumstances,



let the petitioner, above-named, in the event of her arrest or surrender before the learned trial Court, within a period of four weeks from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate, Birpur, where the case is pending in connection with **Birpur (Bhimnagar OP) PS Case No. 267 of 2023**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:

(i). Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as directed by the learned trial Court and on her absence on two consecutive dates without sufficient reason, her bail bond shall be cancelled by the learned trial Court.

(ii). If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iii). And further condition that the learned trial Court shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed



her criminal antecedent, the learned trial Court shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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