

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70216 of 2024

Arising Out of PS. Case No.-74 Year-2023 Thana- MOUZAHDIPUR District- Bhagalpur

Md. Sabir @ Md. Sabir Khan, Son of Late Salimullah, Resident of Mohalla-
Maulanachak, P.S.- Mojahidpur, District- Bhagalpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Advocate

For the Opposite Party/s : Mr. Abhay Kumar Roy, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 05-10-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. This is the third attempt of the petitioner to obtain pre-arrest bail in connection with Mojahidpur P.S. Case No. 74 of 2023 registered for the offences punishable under Sections 307, 120(B), 34 of the Indian Penal Code (in short 'IPC') and Section 27 of the Arms Act, later on Section 302 IPC and Section 25(1-b)a of the Arms Act were also added. He has got two criminal antecedents.

3. It appears that the petitioner having been granted the privilege of pre-arrest bail vide order dated 11.10.2023 in Cr. Misc. No. 44828 of 2023 surrendered in the court below and submitted his bail bonds whereafter the learned court below accepted the bail bonds and the petitioner was released on bail. Later on, it was found that the petitioner had concealed one

criminal antecedent while filing Cr. Misc. No. 44828 of 2023 in this Court, therefore, paragraph '12' of the order dated 11.10.2023 was attracted.

4. Paragraph '12' of the order dated 11.10.2023 in Cr. Misc. No. 44828 of 2023 reads as under:-

“**12.** And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below 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.”

5. Learned counsel for the petitioner submits that in view of the aforesaid condition imposed by this Court, the learned court below has cancelled the bail bonds of the petitioner. He has moved this Court for grant of pre-arrest bail once again in the same case.

6. It is submitted that earlier the petitioner had though disclosed one criminal antecedent, he could not disclose the criminal antecedent of Mojahidpur P.S. Case No. 11 of 2004 registered for the offences punishable under Sections 384 and 386/34 IPC in which he was on bail. It is submitted that because the witnesses were not turning up in the said case for evidence, due to long lapse of time, the petitioner came under impression

that the case has been finally closed. It is for this reason, the said antecedent was not disclosed.

7. Learned APP for the State has opposed this application. It is submitted that this Court had granted privilege of pre-arrest bail to the petitioner subject to certain conditions. He surrendered in the court below and the court below accepted his bail bond but now having noticed that he has concealed his criminal antecedent, the bail bonds have been cancelled. In such circumstance, no prayer for anticipatory bail may be entertained. The petitioner having already surrendered in the court below, is bound by the terms and conditions of the bail bonds.

8. Having regard to the submissions noted hereinabove, this Court finds substance in the submission of learned APP for the State. The petitioner has already surrendered in the court below and submitted bail bonds. His bail bonds have been cancelled on the ground that he had concealed one criminal antecedent while seeking pre-arrest bail before this Court. In the opinion of this Court, the petitioner would be bound by the terms of the bail conditions and the only option left with him is to first surrender in the court below and then pray for regular bail.

9. If the petitioner surrenders in the court below

within a period of three weeks from today and prays for regular bail, the same will be considered by the learned court below and the plea of the petitioner shall be considered taking note of the entire circumstances and a final order shall be passed.

10. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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