

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82535 of 2024

Arising Out of PS. Case No.-83 Year-2021 Thana- SAMSTIPUR RAIL P.S District-
Samastipur

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Surendra Kumar Mishra Son Of Shree Kishori Kant Mishra Resident of
village-Sohpur, Post-Rampur, P.S-Harlakhi, District-Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shankar Kumar Thakur, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

3 21-01-2026 Heard learned counsel for the petitioner and the

learned APP appearing on behalf of the State.

2. The petitioner has preferred this application for quashing the order dated 02.03.2023 passed by the learned Additional District Judge 2nd -cum-Special Judge (Excise), Samastipur in Samastipur Rail P.S. Case No. 83 of 2021 corresponding to GR Case No. 744 of 2021 and T.R. No. 934 of 2023.

3. Learned counsel for the petitioner submits that the petitioner is an ex-army man and after his retirement from the service he was, at the relevant time, working as Security In-charge in Delhi. It is further submitted that the petitioner had diligently appeared almost on all the dates either personally or through his lawyer. However, on account of the illness of his



lawyer no representation could be filed on 06.02.2023, 14.02.2023 and 23.02.2023. However, on the next date i.e. 02.03.2023, the lawyer appeared and had filed an application for representative attendance of the petitioner but the same was not accepted and the bail-bonds of the petitioner was cancelled.

4. Learned counsel for the petitioner submits that non-appearance of either the lawyer or the petitioner was on account of illness of the lawyer and there is no deliberate attempt by the petitioner to run away from the trial of the case. It was only on account of his service in Delhi that the petitioner could not appear on the said date and the bail-bond was cancelled despite the fact that a representative attendance was filed on 02.03.2023 when the same was not accepted and the order for cancellation of the bail-bond was passed.

5. Learned APP appearing on behalf of the State has submitted that the petitioner did not appear consecutively for four days and his bail-bond was cancelled and there is no illegality in the impugned order dated 02.03.2023.

6. Having heard the learned counsel for the petitioner and the learned APP for the State, it is found from the perusal of the order that the petitioner had absented himself on three dates and no application on behalf of the lawyer was submitted for



those three days and hence the bail-bond of the petitioner was cancelled by the learned trial court. It is also evident that the lawyer had appeared on the date when the bail-bond was cancelled and has also filed an application on behalf of the petitioner, however the same was not taken into account.

7. In view of the submissions made by the learned counsel for the petitioner and especially taking into account the fact that he is in service in Delhi and the lawyer concerned was indisposed and was not able to attend the court proceedings and as such there was no deliberate attempt on behalf of the petitioner to evade the court proceedings.

8. In view of the aforesaid, the order dated 02.03.2023 passed by the learned Additional District Judge 2nd -cum-Special Judge (Excise), Samastipur in Samastipur Rail P.S. Case No. 83 of 2021 corresponding to GR Case No. 744 of 2021 and T.R. No. 934 of 2023 is set aside.

9. The petitioner is directed to appear before the learned trial court and file a fresh bail-bond which shall be accepted by the trial court.

(Sourendra Pandey, J)

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