

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85451 of 2025

In
CRIMINAL MISCELLANEOUS No.75527 of 2025

Arising Out of PS. Case No.-320 Year-2024 Thana- SALIMPUR District- Patna

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Anil Kumar Gupta @ Anil Kumar Sao S/o Late Dukhit Saw R/o Village -
Ram Nagar, P.S - Salimpur, District - Patna (Bihar) Presently R/o Village -
Katauna, P.S - Khushrupur, District - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Aman Vishal, Advocate
For the Opposite Party/s : Mr. Aditya Narayan Singh.1, APP

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

3 20-01-2026 Heard the learned counsel for the petitioner and

learned APP for the State.

2. By the present application, the petitioner has
challenged the conditions imposed upon the petitioner wherein
while granting bail the learned Court of District and Additional
Sessions Judge-Ist Barh, Patna has stated that the bail bond shall
be accepted only if the prosecution evidence is closed within six
months from the date of framing of charge. It has been
submitted that the said condition is in teeth of various judicial
pronouncements and is thus bad in law.

3. In view of the aforesaid, it has been prayed that the
condition imposed by the learned Trial Court may be set aside



and any other condition may be imposed.

4. Learned APP for the State submitted that the learned Trial Court is empowered enough to impose conditions and only in order to ensure the appearance of the petitioner such a condition was imposed which was well within the jurisdiction of the court and there is no illegality in the same.

5. Having heard the learned counsel for the parties and taking into account the facts and circumstances of the case, it has been observed that the learned Trial Court after dealing with the entire facts and after referring to various paragraphs of the case diary, has ultimately come to the finding that the petitioner and one another deserve to be released on bail. It is also evident that having granted bail, a separate condition was imposed wherein it has been stated that the bail bonds shall be accepted only if the prosecution evidences is not completed within six months of the framing of charge.

6. In these similar circumstances, the Honorable Supreme Court in the case of **Dataram Singh v. State of Uttar Pradesh and another** reported in (2018) 3 SCC 22 has held that “ *conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.*”



7. In the present case, it would be evident that despite bail being granted to the petitioners, they won't be released unless the end of six months from the date of framing of charge. Imposing such condition, to the understanding of this Court, amounts to rejection of the bail order as the petitioner despite being granted bail will not be released for the next six months merely because the prosecution witness is not closed.

8. At this juncture, it is apt to refer to the judgment delivered by the Hon'ble Supreme Court in the case of **Parvez Noordin Lokhandwalla v. State of Maharashtra** reported in **(2020) 10 SCC 77** has held in paragraph nos. 14 and 15 which is extracted hereinbelow:

‘14. The language of Section 437(3) CrPC which uses the expression “any condition ... otherwise in the interest of justice” has been construed in several decisions of this Court. Though the competent court is empowered to exercise its discretion to impose “any condition” for the grant of bail under Sections 437(3) and 439(1)(a) CrPC, the discretion of the court has to be guided by the need to facilitate the administration of justice, secure the presence of the



accused and ensure that the liberty of the accused is not misused to impede the investigation, overawe the witnesses or obstruct the course of justice. Several decisions of this Court have dwelt on the nature of the conditions which can legitimately be imposed both in the context of bail and anticipatory bail.

15. In *Kunal Kumar Tiwari v. State of Bihar* [*Kunal Kumar Tiwari v. State of Bihar*, (2018) 16 SCC 74 : (2019) 4 SCC (Cri) 727] , the appellant who was alleged to have committed offences under Sections 498-A, 341, 323, 379 and 506, read with Section 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961 was denied [*Kunal Kumar Tiwari v. State of Bihar*, 2017 SCC OnLine Pat 2077] , [*Kunal Kumar Tiwari v. State of Bihar*, 2017 SCC OnLine Pat 2076] anticipatory bail by the High Court. However, the High Court directed that if the appellant was willing to treat his wife with dignity and care but she refuses to live with him or both parties prefer to obtain a divorce by mutual consent, the court below would release



the appellant on provisional bail. The trial court was permitted to confirm the provisional bail after one year and was directed to monitor the relationship between the parties, who would appear before it every three months. This Court, while holding that the conditions imposed by the High Court on grant of bail were onerous and arbitrary, observed : (*Kunal Kumar Tiwari case* [*Kunal Kumar Tiwari v. State of Bihar*, (2018) 16 SCC 74 : (2019) 4 SCC (Cri) 727] , SCC p. 78, paras 9-11)

“9. ... clause (c) of Section 437(3) allows courts to impose such conditions in the interest of justice. We are aware that palpably such wordings are capable of accepting broader meaning. But such conditions cannot be arbitrary, fanciful or extend beyond the ends of the provision. The phrase “interest of justice” as used under the clause (c) of Section 437(3) means “good administration of justice” or “advancing the trial process” and inclusion of broader meaning should be shunned because of



purposive interpretation.

10. ... from the perusal of the impugned order it is clear that the court exceeded its jurisdiction in imposing such arbitrary conditions. Some of the conditions imposed are highly onerous and are absurd. Such onerous anticipatory bail conditions are alien and cannot be sustained in the eye of the law. The conditions imposed appear to have no nexus with the good administration of justice or advancing the trial process, rather it is an overzealous exercise in utter disregard to the very purpose of the criminal justice system.

11. *In view of the above, the impugned order [Kunal Kumar Tiwari v. State of Bihar, 2017 SCC OnLine Pat 2077] , [Kunal Kumar Tiwari v. State of Bihar, 2017 SCC OnLine Pat 2076] passed by the High Court is set aside and the interim protection granted to the petitioner by this Court [Kunal Kumar Tiwari v. State of Bihar,*



(2018) 16 SCC 74, 78 (footnote 3)] ... is made absolute.”

9. In view of the aforesaid judicial pronouncements, though the impugned order dated 28.02.2025 grants bail to the petitioner, but with such a condition that they cannot be released with immediate effect, the same amounts to plucking feathers prior to releasing a bird and literally rendering the order granting bail otiose.

10. In view of the aforesaid discussions made hereinabove, the condition imposed in the order dated 28.02.2025 passed in B.P. No. 61 of 2025 and 87 of 2025, passed by the learned District and Additional Sessions Judge-Ist Barh, Patna is set aside and the petitioner is directed to be released on bail with the following conditions:

(i) The petitioner shall remain physically present in the Court on each date of the trial.

(ii) In case of absence on two consecutive dates, or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the Court concerned.

(iii) The petitioner shall not influence the prosecution witnesses and if it is found and



reported otherwise, the prosecution shall be at liberty to file necessary application for cancellation of bail.

11. The present application stands allowed with the directions aforementioned.

(Sourendra Pandey, J)

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