

(2011) 05 JH CK 0027

Jharkhand High Court**Case No:** Cr.M.P. No. 1690 of 2009

Bharat Singh

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision: May 3, 2011**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - Section 34, 379

Hon'ble Judges: Dilip kumar sinha, J**Bench:** Single Bench

Judgement

D.K. Sinha, J.

The Petitioner has invoked the inherent jurisdiction of this Court u/s 482 Code of Criminal Procedure for quashment of the order dated 07.11.2009 passed by the Sessions Judge, Jamshedpur in Cr. (Misc.) Petition No. 34 of 2009, arising out of Mango P.S. Case No. 257 of 2009, corresponding to G.R. No. 1802 of 2009 for the alleged offence under Sections 379/34 of the Indian Penal Code as also u/s 134 of the Electricity Act, related to alleged electricity theft.

2. The Petitioner had preferred A.B.P. No. 723 of 2009 before the Sessions Judge, East Singhbhum, Jamshedpur and by the order dated 13.10.2009 the learned Sessions Judge allowed the anticipatory bail however with the condition that the entire dues of electricity to the tune of Rs. 2,01,686/- (Two lakh one thousand six hundred eighty six) would be paid in 10 equal monthly instalments @ Rs. 20,167.60 paise on 10th of every month on submission of the receipt of the loss account of Rs. 28,000/- as lumpsum over and above the monthly instalments fixed.

3. Learned Counsel submitted that the Petitioner has already deposited a sum of Rs. 28,000/- lumpsum but being the driver having very poor salary that he was earning @ Rs. 5,000/- per month, the Petitioner expressed his inability and therefore, he filed a Misc. Petition No. 34 of 2009 before the Sessions Judge, Jamshedpur requesting

for the enhancement of the instalment period which was refused and hence the instant Misc. Petition u/s 482 Code of Criminal Procedure.

4. I find from the record that this petition was filed on 22.12.2009 and it was for the first time taken up on 28.04.2011 on mentioning slip and thereafter it has been taken up today.

5. Learned Counsel Mr. Karmakar admitted that the Petitioner could not pay single instalment as he was unable to pay such a huge amount but at the same time, I find that he was admitted to anticipatory bail on the terms and conditions as laid down in A.B.P. No. 723 of 2009 recorded by the Sessions Judge, but I find that the Petitioner has violated the terms and conditions of the bail order which call for its vacation by appropriate order. However, on the request of Mr. Karmakar the learned Counsel that some lenient view may be taken enabling him, so that the Petitioner could be able to pay the entire amount. The Petitioner is enjoying the privilege of anticipatory bail yet considering that the Petitioner is a driver, he is directed to pay the entire amount to the tune of Rs. 2,01,686.00/- in two equal instalments within two months since today, failing to which the Court concerned would be at liberty to issue process against him and it shall be deemed that his anticipatory bail has been vacated if the direction aforesaid could not be followed by him in letters and spirit within time frame.

6. With this observation, the Misc. Petition is disposed of.