

**2022 LiveLaw (SC) 961**

**IN THE SUPREME COURT OF INDIA**  
**AJAY RASTOGI; J., C.T. RAVIKUMAR; J.**  
**Special Leave to Appeal (Crl.) No(s). 8498/2022; 14-11-2022**  
**DIVYA BHARTI versus THE STATE OF BIHAR**

**Code of Criminal Procedure, 1973; Section 438 - Anticipatory Bail - SLP against order of HC that imposed anticipatory bail condition that accused will return the salary which she has received while working as a Panchayat Teacher - Allowed - Additional condition of returning the amount drawn by her as salary on appointment as Panchayat Teacher is neither justified nor required under the law while grant of pre-arrest bail to her - HC direction in not sustainable legally and hence set aside.**

(Arising out of impugned final judgment and order dated 11-05-2022 in CRM No. 14853/2021 passed by the High Court of Judicature at Patna)

*For Petitioner(s) Mr. Binay Kumar Das, AOR Ms. Priyanka Das, Adv. Ms. Neha Das, Adv. Mr. Ajai Kumar, Adv. For Respondent(s) Mr. Manish Kumar, AOR*

**ORDER**

The present petition has been filed assailing the conditions which were imposed by the High Court while granting her anticipatory bail by an order dated 11.05.2022. It reveals from the record that the petitioner was appointed as a Panchayat Teacher and while in service an FIR No. 125/2020 dated 17.06.2020 came to be registered against her for offence under Sections 420, 467, 468, 471 & 120B of IPC.

At this stage when she approached the Sessions Court in the first instance seeking pre-arrest bail that came to be rejected by an order dated 16.10.2020 and the High Court although granted her pre-arrest bail by an order dated 11.05.2022 on the condition that she will return the salary which she has received while working as a Panchayat Teacher. The extract of the condition imposed by the High Court while granting her pre-arrest bail reads as under:

“Further condition is that the petitioner shall return the entire amount drawn by her as salary in eighteen equal monthly installments and she shall not claim for her appointment as Panchayat Teacher.”

Learned counsel for the petitioner submits that whether the petitioner was entitled for pre-arrest bail or post-arrest bail depends upon the facts and circumstances of the case but at the given point of time the High Court was not justified in putting such onerous conditions by calling upon her to return the salary which she has received in equal installments which is neither contemplated under the Code nor it can be made a condition for the purpose of seeking bail and this Court has come forward to question such onerous conditions being put by the High Court while granting pre-arrest/post-arrest bail to the applicant.

After hearing learned counsel for the parties and taking into consideration the material on record, we are of the view that the additional condition of returning the amount drawn by her as salary on appointment as Panchayat Teacher is neither justified nor required under the law while grant of pre-arrest bail to her.

Consequently, the additional condition, indicated above, imposed by the High Court under order impugned dated 11.05.2022 is not legally sustainable and accordingly set aside.

With this clarification, the special leave petition stands disposed of.

Pending application(s), if any, stands disposed of accordingly.