Annexure-P

Contempt of Courts (Patna High Court) Rules

Under the Contempt of Courts Act, 1971
(Act 70 of 1971)

1. (1) These Rules shall be called the Contempt of Courts (Patna High Court) Rules.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In these Rules unless there is anything repugnant to the subject or context:

(a) *'Act'* means the Contempt of Courts Act, 1971 (Act 70 of 1971)

(b) *'High Court'* means the High Court of Judicature at Patna.

(c) *'Judge'* means Judge of the High Court of Judicature at Patna

(d) *'Subordinate Court'* means any court subordinate to the High Court of Judicature at Patna.

(e) *'Registrar'* means the Registrar of the High Court of Judicature at Patna.

[Words "and includes Additional Registrar, Ranchi Bench" deleted by C.S. No. 124 dated 13.3.2001.]

(f) All other words and expressions used in these Rules, but not defined therein, shall have the meanings respectively assigned, to them in the Act.

3. (i) Every petition for initiating a proceeding for civil contempt within the meaning of the Act shall be registered as Miscellaneous Judicial Case whereas petitions for initiating proceedings for criminal contempts shall be registered as Original Criminal Miscellaneous Cases.

(ii) In every such petition the State of Bihar shall be made a respondent.

(iii) Every such petition shall contain—

(a) Name, description and place of residence of the petitioners and of person or persons charged;

(b) Nature of the comtempt alleged and such material facts, including the date or dates of the commission of the alleged contempt, as may be necessary for proper determination of the case.

(c) If a petition has previously been made by him on the same facts, the petitioner shall give the details of the petition previously made and shall also indicate the result thereof.

(iv) The petition shall be supported by an affidavit.

(v) Where the petitioner relies upon a document or documents in his possession or power, he shall file such document or documents or true copies thereof with the petition.

(vi) No court- fee shall be payable on the petition, and on any document filed in the proceeding.

4. A petition for civil contempt as well as for criminal contempt shall be filed [1][at the Centralised filing Counter] of the High Court.

5. Every motion made by the Advocate-General under Section 15 of the Act shall state the allegations of the facts and the view of the motion maker that in relation to those facts contempt appears to have been committed of which the court should take cognizance and take further action. The motion should contain sufficient material to indicate why the Advocate-General is inclined to move the Court.

6. Every petition for initiating a contempt proceeding shall be posted before a Bench of the Court for preliminary hearing and for orders as to issue of notices, except petitions in respect of civil contempt which relates to orders or directions passed by a Judge of this Court which shall be listed for preliminary hearing and orders as to issue of notice before a Judge of this Court. Upon such preliminary hearing the Court if satisfied that no *prima facie* case has been made out for issue of notice, may dismiss the petition, and if not so satisfied, direct that notice of the petition be issued to the contemner.

7. (i) The notice to the person charged shall be issued in **Form 1.** when action is instituted on a petition, a copy of the petition along with annexures and affidavits shall be served upon the person charged.

(ii) The person charged may file his reply show cause duly supported by an affidavit or affidavits.

(iii) The person charged shall, unless otherwise ordered, appear in person before the Court as directed on the date fixed for hearing of the proceeding, and shall continue to remain present during the hearing till the proceeding is finally disposed of by the order of the Court.

8. The Court may direct the Advocate General or any other State Counsel to appear and assist the Court.

9. The Court may in appropriate cases before initiating proceeding for contempt against the contemner, issue notices to such contemner directing him to show cause as to why a proceeding for contempt be not initiated against him. In such cases, it shall not be necessary for the alleged contemner to be present in Court and question of initiating a proceeding for contempt shall be considered on the basis of the show cause filed.

10. The notice of every proceeding for contempt shall be served personally on the person charged unless the Court, for the reasons recorded, direct otherwise. In that event the service may be effected by alternative form of service authorised by the Code of Civil Procedure or Code of Criminal Procedure, as the case may be.

11. (i) The Court may, if it has reason to believe, that the person charged is absconding or is otherwise evading service of notice, or if he fails to appear in person or to continue to remain present in person in pursuance of the notice, direct

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1. *Subs.* by C.S. No. 114 dated 30.9.1996.

a warrant bailable or non-bailable for his arrest, addressed to one or more police officers and may order attachment of property. The warrant and the writ of attachment shall be issued under the signature of the Registrar. The warrant shall be in **Form II** and shall be executed, as far as may be in the manner provided for execution of warrants under the Code of Criminal Procedure.

(ii) The warrant shall be executed by the officer or officers to whom it is directed, and may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

(iii) every person who is arrested and detained shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate, who shall authorise detention for the period till such person is produced before the High Court.

(iv) Every person who is arrested and detained when produced before the High Court, shall be released on bail if a bond for such sum of money as the Court thinks sufficient is executed with or without sureties, with condition that the person charged shall attend at the time and place mentioned in the bond and shall continue to so attend until otherwise directed by the Court.

Provided further that the Court may if it thinks fit, instead of taking bail from such person, shall release him on his execution of a bond without sureties for his attendance as aforesaid or without executing any such bond. The provisions of the Code of Criminal Procedure, 1973 shall, so far as may be, apply to all the bonds executed under the Rules.

12. If it appears to the Court that an enquiry should be held in which witnesses have to be examined, the court may make order for purpose of securing the attendance of any person to be examined as a witness and for discovery or production of any document.

13. The Court may pass such order as it thinks fit consistent with the provisions of the Act.

14. Where contempt is committed in the presence of Court, or during the hearing of a case by the Court, the proceeding initiated for such contempt shall be conducted in accordance with the procedure prescribed by Section 14 of the Act.

15. (i) Reference under Section 15 (2) of the Act may be made by a subordinate court either *suo motu* or on application received by it.

(ii) Before making a reference the subordinate court shall hold a preliminary enquiry by issuing a show cause notice accompanied by copies of the relevant documents, if any, to the contemner and after hearing him the subordinate court shall write a concise reasoned order of reference indicating why contempt appears to have been committed.

16. The Patna High Court Rules which are not inconsistent with the provisions of these Rules *mutatis mutandis* shall apply to the proceedings in the High Court.

17. Where a person charged with contempt is adjudged guilty and is sentenced to suffer imprisonment, a warrant of commitment and detention shall be made out in **Form III** under the signature of the Registrar. Every such warrant shall remain in force until it is cancelled by order of the Court or until it is executed. The Superintendent of the Jail shall in pursuance of the order receive the person so adjudged and detain him in custody for the period specfied therein, or until further orders.

18. Appeal.—The appeal presented to the Court against the decision of a Single Judge under Section 19(1)(a) of the Act shall be filed in accordance with the Patna High Court Rules meant for Letters Patent Appeals and such appeal shall be placed before a Division Bench for admission and hearing. After admission of the appeal, the provisions regarding issuance of notice, and preparation of paper book shall be governed by the Patna High Court Rules meant for Letters Patent Appeals.

19. The provisions of the Code of Criminal Procedure, 1973, which are not inconsistent with the provisions of the Act and these Rules, shall be applicable to enforce and execute the orders passed by the High Court in proceedings for contempt.

FORM-I

Notice to a person charged with contempt of Court

(See Rule 7)

In the High Court of Judicature at Patna.

Whereas your attendance is necessary to answer a charge of Contempt of Court by (here briefly state nature of the contempt).

You are hereby required to appear in person (or by Advocate if the Court has so ordered) before this Court at Patna on the.....day.....of.....20.

* You shall attend the court in person on the.....day of 20 ....., and shall continue to attend the court on all days thereafter to which the case against you stands adjourned and until final orders are passed on the charge against you.

Herein fail not.

Dated this day of 20.....

(SEAL) Registrar.

FORM II

Warrant of Arrest

(See Rule 11)

In the High Court of Judicature at Patna.

To

(Name and designation of the person or persons who is or are to execute the warrant.)

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* To be omitted where the person charged is allowed or ordered to appear by advocate.

Whereas.....of is charged with committing contempt of this Court, you are hereby directed to arrest the said.....and to produce him before this Court.

Herein fail not

(If the Court has issued a bailable warrant, the following endorsement shall be made on the warrant.)

If the said.....shall give bail in the sum of Rs. .....with one surety in the sum of Rs. .....(or two sureties each in the sum of Rs.....) to attend before this Court on the.....day of.....20, and to continue so to attend until otherwise directed by this Court, he may be released.

Dated this day of 20

(SEAL)

Registrar.

FORM III

Warrant of commitment for contempt.

(See-Rule 17)

In the High Court of Judicature at Patna.

To the Superintendent of the Jail at.....

Whereas at the Court holden on this day (name and description of the contemner) has been adjudged by the Court guilty of willful contempt of Court, and he has been sentenced to suffer imprisonment for the period.....(here specify the term)/ and/or to pay a fine of rupee. .....

This is to authorise and require you, the Superintendent of the said Jail, to receive the said (name of the contemner) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (term of imprisonment) or for such shorter period as may hereafter be fixed by order of this Court and intimated to you. You are directed to return this warrant with an endorsement certifying the manner of its execution.

You are further directed that while the said.....is in your custody, produce the said.....before this court at all times when the court shall so direct.

Given under my hand and the seal of the court..... this.....day of.....20.

(SEAL)

Registrar