

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.46259 of 2015

Arising Out of PS.Case No. -62 Year- 2011 Thana -SIKARHATA District- BHOJPUR

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Jitendra Pandey Son of Late Sidhnath Pandey Resident of village - Deo,
Police Station - Sikrahata in the District of Bhojpur

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Akhileshwar Prasad Singh, Senior Advocate
Mr. Prabhu Narayan Sharma, Advocate
For the Opposite Party : Mr. Arun Kumar, APP

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

ORAL ORDER

3 13-10-2015

This is an application, made under Section 439 of the Code of Criminal Procedure, seeking bail for the accused-petitioner, namely, Jitendra Pandey, in connection with Sikrahata Police Station Case No. 62 of 2011, under Sections 376/34 of the Indian Penal Code.

Perused the above application and materials on record. Also perused the lower court record.

Heard Mr. Akhileshwar Prasad Singh, learned Senior Counsel for the petitioner, and Mr. Arun Kumar, learned Additional Public Prosecutor, appearing on behalf of the State.

Perusal of record reveals that on completion of the investigation, police submitted its report, under Section 173(ii) of the Code of Criminal Procedure, recommending the case to be closed on account of non-availability of evidence, but the learned Court below took cognizance, under Section 376/35

of the Indian Penal Code, by its order, dated 02.04.2012, against all the three named accused including the present petitioner, Jitendra Pandey, and issued summons to them accordingly.

The present petitioner, Jitendra Pandey, and co-accused Deepak Kumar Pandey, filed a petition, under Section 438 of the Code of Criminal Procedure, for pre-arrest bail, which came to be registered as Cr. Misc. No. 43869 of 2011, but the same was rejected by a Bench of this Court by order, dated 16.04.2015.

Thereafter, the petitioners aforementioned filed, again, the application, seeking pre-arrest bail, which gave rise to Cr. Misc. No. 22525 of 2014; but the said application though stood disposed of as withdrawn, on the prayer made on behalf of the petitioners, by order, dated 12.08.2014, a Bench of this Court gave liberty to the petitioners to surrender before the learned Court below within a fortnight with a prayer of regular bail.

Perusal of the record also reveals that the present petitioner, Jitendra Pandey, and co-accused, Deepak Pandey, once again, that is, for the third time, applied for anticipatory bail to this Court, which gave rise to Cr. Misc. No.43745 of 2014, and by order, dated 19.11.2014, while rejecting the petitioners' prayer for anticipatory bail, a Bench of this Court directed the petitioner to surrender in the learned Court below within a fortnight and seek regular bail making it clear that in the event,

the petitioner failed to surrender in the Court below, the Court below shall take all *coercive steps* for apprehending the petitioners in accordance with law.

Notwithstanding the specific directions, which had been passed on 19.11.2014, the petitioner did not appear in the learned Court below.

The learned Court below, therefore, ordered, on 25.05.2015, issuance of process, under Section 82 and 83 of the Code of Criminal Procedure, against the accused persons.

The petitioner was arrested and produced by the police before the learned Court below on 28.07.2015 and since then he has been in custody.

Having regard to the conduct of not only non-compliance and violation with the directions of this Court given to the petitioner to surrender in the learned Court below, this Court is of the view that in the facts and attending circumstances of the case, at hand, the petitioner cannot be allowed to go on bail at this stage. The prayer for bail is accordingly rejected at this stage.

In terms of the above, this application stands disposed of.

(I.A. Ansari, ACJ)

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