

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6888 of 2015

Arising Out of PS.Case No. -14 Year- 2013 Thana -MAHILA P.S District- SUPAUL

1. Ram Yadav S/o Late Jigeshwar Yadav Resident of Village Fulwariya,
P.S. Kishanpur, District Supaul.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Jha, Advocate

For the Opposite Party/s : Mr. Ambika Bhagat (Spl.PP)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 20-02-2015 Heard learned counsel for the petitioner and the State.

Petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 342, 354, 504 of the Indian Penal Code 3(1)(x)(xi) of the S.C./S.T. Act.

It is submitted by the learned counsel for the petitioner that the petitioner was granted regular bail by the learned court below vide order dated 19.08.2013 but subsequently charge-sheet was submitted under Section 376 of the Indian Penal Code also, consequently cognizance was also taken under Section 376 of the Indian Penal Code. Hence, petitioner filed application before the learned Sessions Judge with a prayer for anticipatory bail which was rejected considering the nature of accusation.



It appears from the record that First Information Report was registered under Section 342, 354, 504 of the Indian Penal Code and Sections 3(1) (x) (xi) of the S.C./S.T.(Prevention of Atrocities) Act, 1989. During pendency of the investigation the petitioner was granted bail by learned Chief Judicial Magistrate, Supaul vide order dated 19.08.2013 as contained in Annexure-2 to the petition on the basis of compromise entered between the parties. On conclusion of investigation final form (charge-sheet) was submitted under Sections 341, 376/511, 504 of the Indian Penal Code and Sections 3(1) (x) (xi) of the S.C./S.T.(Prevention of Atrocities) Act. Consequently cognizance was also taken under the same provisions.

Since charge sheet was also submitted under Sections 376/511 of the Indian Penal Code and consequently cognizance was taken hence the petitioner preferred application for anticipatory bail before learned Sessions Judge.

The learned Sessions Judge, Saharsa, it appears committed an error of record that First Information Report was also registered under Section 376 of the Indian Penal Code. The First Information Report contained in Annexure-1 reflects that it was not registered under Section 376 of the Indian Penal Code. Moreover the learned Sessions Judge further committed error of record by recording that the charge-sheet was filed and cognizance was taken also under Section 376 of the Indian

Penal Code whereas it is specifically stated by the petitioner in paragraph no. 8 of the petition that charge-sheet was submitted and cognizance was taken under Section 376/511 of the Indian Penal Code.

The paragraph no. 8 of the petition reads as follows:-

“That although the material against the petitioner is same or almost same, the police submitted charge-sheet on 23.09.2013 under Section 341, 376, 511 and 504 of the Indian Penal Code and Sections 3(1) (x) (xi) of the S.C./S.T.(Prevention of Atrocities) Act. Thereafter, cognizance was taken on 28.09.2013 for the offences under Section 341, 376, 511 and 504 of the Indian Penal Code and Section 3(1) (x) (xi) of the S.C./S.T.(Prevention of Atrocities) Act.”

There is nothing on record to suggest that the bail bonds of the petitioner has been cancelled. Moreover since the petitioner was granted bail by the learned Chief Judicial Magistrate and consequently the petitioner furnished bail bond then he is in deemed custody of the Court, hence in such circumstances anticipatory bail is not maintainable. If the bail bonds has actually not been cancelled then the regular bail is also not maintainable if the bail bonds are already cancelled then petitioner may prefer an application for regular bail before learned court below in such circumstances the regular bail is denied only in case of misuse of the privilege of earlier bail.

The present order in no way will preclude the learned court below to cancel the bail bonds of the petitioner

within the established parameters when the bail bonds can be cancelled.

With observations above, the application is disposed of.

(Dinesh Kumar Singh, J)

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