

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12526 of 2015

Arising Out of PS.Case No. -85 Year- 2014 Thana -MUZFFARPUR GRP CASE District-
MUZAFFARPUR

=====

1. Ajay Jaiswal S/o Nagendra Prasad Village Darwa, P.S. Mohania, District
Kaimur (Bhabhua).

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh

For the Opposite Party/s Mr. Ashok Kr.Singh No.1(App)

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

04/ 22.05.2015 Heard learned counsel for the petitioner as well as learned
Addl. Public Prosecutor for the State.

Petitioner apprehends his arrest in connection with
Muzaffarpur Rail P. S. case no. 85/2014 registered under sections 8,
20 and 22 of the NDPS Act.

Name of the petitioner came in this case in the confessional
statement of co-accused Ashish Singh who was caught by the police
and said Ashish Singh disclosed that seized ganja had to be delivered
to the petitioner.

Learned Sessions Judge dismissed the prayer for
anticipatory bail of the petitioner on the ground of non-maintainability
of anticipatory bail of the petitioner in the case of NDPS Act on the
strength of decision of Rakesh Kumar vs. State of Himachal Pradesh
reported in Cr. L.J. 2003, page 3503 (H.P.).

Learned counsel for the petitioner referred a judgment of

Kolkata High court passed in **SRCR No. 1 of 2013 (Teru Majhi and anr. vs State of West Bengal and ors** and submitted that the aforesaid judgment was delivered by three Judges bench and in the aforesaid judgment, it has specifically been held that petitions under section 438 of the Code of Criminal Procedure are maintainable even in the case of NDPS Act as the above stated Act does not expressly bar to entertain petitions filed under section 438 of the Code of Criminal Procedure.

Considering the aforesaid facts and circumstances as well as submissions of the parties, this anticipatory bail petition is allowed and it is ordered that in the event of arrest/ surrender within four weeks from the date of receipt of this order to the concerned court, let the petitioner be released on bail on furnishing bail bonds of Rs 10,000/- with two sureties of the like amount each to the satisfaction of the learned Sessions Judge-cum- Special Judge, Muzaffarpur in Muzaffarpur Rail P. S. case no. 85/2014 subject to condition as laid down under section 438(2) of the Cr.P.C.

shahid

(Hemant Kumar Srivastava,J)

U		T	
---	--	---	--