

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25512 of 2015

Arising Out of PS.Case No. -38 Year- 2015 Thana -GORAUL District- VAISHALI(HAJIPUR)

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Asjad Ali @ Pappu S/o Md. Haider Ali, resident of village-Sondho Bazar,
P.S.-Garoul, District-Vaishali.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Adv.

For the Opposite Party/s : Mr. Nirmal Kumar Sinha(App)

For the informant : Mr. Manish Chandra Gandhi, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 26-08-2015 Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under section 376 of the Indian Penal Code, this Court upon hearing learned counsel for the petitioner as also learned counsel for the informant was still inclined to grant privilege of anticipatory bail taking into account the delay in filing of the F.I.R. but also the circumstances that the physical intimacy and relationship between the informant and the petitioner remained unabated for a period of two years despite O.P.No.2 being aware that the petitioner was a married man and could not have married the O.P.No.2.

What really then comes in the way of this Court in granting anticipatory bail is filing of subsequent F.I.R. being Goraul P.S.Case No. 142/2015 dated 6.5.2015 which surprisingly has been filed by the brother-in-law (Bhaisur) of the prosecutrix in the



present case alleging that the petitioner with two others had forcibly entered in his house and had tried to threaten them for withdrawing the present case by the prosecutrix. If the petitioner has been indulging by way of threatening the witnesses or coercing the prosecutrix in any manner he will never be entitled for privilege of anticipatory bail but then Mr. Jha submits that the police has already submitted a final form in this case holding the First Information Report to be itself false as well as recommending the prosecution of the informant Md. Sabir under section 182/211 I.P.C.

Learned counsel for O.P.No.2, however, does not have any instruction on this issue.

That being so, this Court would direct the petitioner, Asjad Ali @ Pappu, to surrender before the court below within a period of four weeks from today and if the court below finds that the police has already submitted a final form in Goraul P.S.Case No. 142/2015 and also recommended for prosecution of the informant Mr. Sabir under section 182/211 I.P.C., it shall grant bail to the petitioner on the following conditions:

- (i) That both the bailors will be close relative of the petitioner who will give an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the Court if there is any

change in the address of the petitioner.

(ii) That the bailors shall also state on affidavit that they will inform the Court concerned if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the Court below will be at liberty to initiate the proceeding for cancellation of his bail on the ground of misuse.

(iii) That the petitioner will be well represented on each and every date of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

(iv) If, on the other hand, it is found that Goraul P.S.Case No. 142/2015 is still continuing and the police has not filed the final form as on today, the petitioner shall be taken into custody, whereafter his prayer for regular bail will be considered on its own merits without being prejudiced by the present order.

surendra/-

(Mihir Kumar Jha, J)

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