

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39338 of 2014

Arising Out of PS.Case No. -98 Year- 2012 Thana -DIGHALBANK District- KISANGANJ

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Zahir Alam, S/o Jargish Alam, resident of Village-Bharbheri, P.S.-Dighal Bank, District-Kishanganj

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Raj Kumar, Advocate

For the Opposite Party : Mr. Ganesh Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

ORAL ORDER

2 16-04-2015

This is an application, made under Section 438 of the Code of Criminal Procedure, seeking pre-arrest bail by the petitioner, namely, Zahir Alam, in connection with Dighal Bank Police Station Case No. 98 of 2012 under Section 376 of the Indian Penal Code.

Perused the above application and materials on record including a copy of the order, dated 23.08.2014, passed, in A.B.P. No. 38 of 2013, by the learned Sessions Judge, Kishanganj, rejecting the said application for pre-arrest bail.

Heard Mr. Raj Kumar, learned Counsel for the petitioners, and Mr. G. P. Singh, learned Additional Public Prosecutor, appearing for the State.

The High Court, while exercising its powers under Section 438 Code of Criminal Procedure stands on the same footing as does a Sessions Judge inasmuch as a High Court and

Sessions Judge have coordinate jurisdiction, while exercising power under Section 438 Code of Criminal Procedure.

Considering the nature of incriminating materials available against the petitioner, this Court does not find that the petitioner has been able to make out any case calling for giving him benefit of pre-arrest bail.

It is, now, submitted by learned counsel for the petitioner that there are already warrants of arrest issued against the petitioner and the petitioner is ready to surrender in the Court of competent jurisdiction.

Considering the matter in its entirety and in the interest of justice, while declining to grant pre-arrest bail to the petitioner, it is made clear that if the petitioner surrender in the Court of competent jurisdiction and if, upon his appearance in the Court of competent jurisdiction, the petitioner apply for regular bail, the learned Court below shall consider and dispose of the same in accordance with law without any unreasonable delay.

With the above observations and directions, this application shall stand disposed of.

(I. A. Ansari, J)

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