

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50849 of 2014

Arising Out of PS.Case No. -287 Year- 2014 Thana -RAHUI District- NALANDA
(BIHARSHARIFF)

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Mukesh Yadav Son of Chandeshwar Yadav Resident of Village - Basak
Saidi P.S - Rahui District Nalanda

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Pankaj Kumar, Advocate

For the Opposite Party : Mr. Md. Ansarul Haque, APP

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

ORAL ORDER

4 07-05-2015

This is an application, made under Section 438 of the Code of Criminal Procedure, seeking pre-arrest bail by the petitioner, namely, Mukesh Yadav, in connection with Rahui Police Station Case No. 287 of 2014 under Sections 447/441/323/337/308/379/504/325 of the Indian Penal Code.

Perused the above application and materials on record including a copy of the order, dated 12.11.2014, passed, in A.B.P. No. 1078 of 2014, by the learned Sessions Judge, Nalanda at Biharsharif, rejecting the said application for pre-arrest bail.

Heard Mr. Pankaj Kumar, learned Counsel for the petitioners, and Mr. Md. A. Haque, 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.

In view of the nature of incriminating materials available against the petitioner, this Court does not find that the petitioner has been able to make out a case calling for according her benefit of pre-arrest bail. This Court, however, hasten to add that in an appropriate case, an accused may be granted regular bail even if his or her application for pre-arrest bail is rejected inasmuch as factors, governing the exercise of power under Section 438 Cr.P.C., are not exactly the same as exercise of power under Section 437 Cr.P.C.

It is, now, submitted by learned counsel for the petitioner that the petitioner is ready to surrender in the Court of competent jurisdiction.

Considering, therefore, 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 surrenders in the Court of competent jurisdiction and if, upon her appearance in the learned Court below, the petitioner applies 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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