

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43352 of 2014

Arising Out of PS.Case No. -179 Year- 2013 Thana -RUNISAIDPUR District- SITAMARHI

=====

Mamta Devi Wife of Raju Mahto Resident of Village-Kubauli, P.S.-
National Highway Bengra, District-Samastipur.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

=====

Appearance :

For the Petitioner : Mr. Prabhakar Jha, Advocate

For the Opposite Party : Mr. Ram Naresh Roy, APP

=====

CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

ORAL ORDER

2 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, Mamta Devi, in connection with Runnisaidpur Police Station Case No. 179 of 2013 under Section 395 of the Indian Penal Code.

Perused the above application and materials on record including a copy of the order, dated 02.08.2014, passed, in A.B.P. No. 976 of 2014, by the learned Sessions Judge, Sitamarhi, rejecting the said application for pre-arrest bail.

Heard Mr. Prabhakar Jha, learned Counsel for the petitioners, and Mr. Ram Naresh Roy, 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.

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, bearing in mind the fact that the petitioner is a female person, 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)

Pawan/-

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