

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8150 of 2015

Arising Out of PS.Case No. -39 Year- 2014 Thana -MAHILA PS District- JEHANABAD

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Anil Kumar Verma Son of Late Sarju Prasad Verma Resident of Mohalla
Maurya Vihar Colony, West Side of B.M.P. - 16 P.O. & P.s. - Phulwarisarif,
District - Patna atPresent posted asBranch Manager, State Bank of India,
Gardhpura Branch, District - Begusarai.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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with

Criminal Miscellaneous No.8251 of 2015

Arising Out of PS.Case No. -39 Year- 2014 Thana -MAHILA PS District- JEHANABAD

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Arvind Kumar Choudhary S/o Shyam Narayan Choudhary Resident of
Village Damodarpur, P.S. Bhawanganj, District Begusarai. At present
posted as Accountant, State Bank of India, Gardahpura Branch, District
Begusarai.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.8150 of 2015)

For the Petitioner/s	:	Mr. Yugal Kishore, Sr. Adv & Mr. Ugranath Mallik, Adv
For the Opposite Party/s	:	Mr. Uma Nath Mishra(App)
For the Informant	:	Mr. Uma Shankar Mishra, Adv & Mr. Binod Kumar Mishra, Adv

(In Cr.Misc. No.8251 of 2015)

For the Petitioner/s	:	Mr. Yugal Kishore, Sr. Adv & Mr. Ugranath Mallik, Adv
For the Opposite Party/s	:	Mr. Uma Nath Mishra(App)
For the Informant	:	Mr. Uma Shankar Mishra, Adv & Mr. Binod Kumar Mishra, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER



Both the petitioners facing prosecution for the offence punishable under Sections-376/34 of the Indian Penal Code, while making prayer for anticipatory bail have come out to say that such heinous allegation against them is out and out a concocted version of the informant (prosecutrix), inasmuch as, when the petitioner Anil Kumar Verma had submitted a report on 05.06.2014 in capacity of the Branch Manager of the Bank, against the husband of the prosecutrix namely Ajay Kumar Bharti working as cashier in the bank and found to be indulging in misappropriation and embezzlement of the amount of the bank, whereupon, the Head office had set up an inquiry and such allegation on 19.06.2014 on the basis of materials furnished by the petitioner Arvind Chaudhary the Accountant of the Bank were found to be substantiated the present case was lodged only by way of retaliation by the informant on 20.06.2014. It has also been submitted that both the petitioners have no criminal antecedent.

Per contra, Mr. Uma Shankar Verma, learned



counsel appearing on behalf of the informant having filed the counter affidavit has sought to explain that the police case against Ajay Kumar Bharti, the husband of the prosecutrix was filed on 26.06.2014, whereas the present case against the petitioners was filed by the informant on 20.06.2014. He has also submitted that the statement of the informant was recorded under Section 164 Cr.P.C., wherein, she had supported the allegation of rape against both the petitioners. Finally, he submits that after submission of final form in the case filed by the informant on 29.03.2015, this application for anticipatory bail, can no longer be said to be maintainable because cognizance has been taken on protest petition on 28.08.2015.

In the considered opinion of this Court, once it is found that the petitioner, Anil Kumar Verma in capacity of Branch Manager of the Bank, where the husband of the informant was working as cashier, had reported as with regard to misappropriation/embezzlement of the amount of Bank on 05.06.2014, whereafter the Head Office had



set up inquiry in which the husband of the petitioner was conspicuously became absent and in such inquiry report dated 19.06.2014 based on the materials furnished by petitioner Arvind Kumar Chaudhary, the Accountant of the Bank, the husband of the informant was found to be prima facie involved in the misappropriation/ embezzlement of the fund of the Bank, the timing of present FIR lodged against the petitioners on 20.06.2014 itself smacks of vengeance. What would still more bring the allegation of rape into the zone of suspicion, is that, the alleged incident of rape on the person of prosecutrix had allegedly taken place on 14.06.2014, but information to the police was given by her to police only on 20.06.2014.

This Court is also of the view that when this bail application was filed on 23.02.2015, the petitioners were apprehending arrest, being named accused for offence under Section 376 of the Indian Penal Code and therefore, if the final form was submitted in the month of march

2015 leading to cognizance of the offence in August 2015 on the protest petition filed by the prosecutrix, that by itself would not disentitle the petitioners from seeking the privilege of anticipatory bail.

Thus when this Court would find that the petitioners have also got no criminal antecedent, it would be for the reasons indicated above inclined to grant the privilege of anticipatory bail to both the petitioners.

That being so, this Court would direct that if the petitioners namely, **Anil Kumar Verma and Arvind Kumar Choudhary**, surrender within a period of four weeks from today, they would be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of **Chief Judicial Magistrate, Jehanabad** in connection with **Jehanabad (Mahila) P.S. Case No. 39 of 2014**, subject to the conditions laid down under Section- 438 (2) Cr. P.C and also subject to the following conditions:-

(i) That both the bailors will be close relative

of the petitioners who will give an affidavit giving genealogy as to how they are related with the petitioners. The bailors will also undertake to inform the Court if there is any change in the address of the petitioners.

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

(iii) That the petitioners will give an undertaking that they will receive the police papers on the given date and be present on the date fixed for charge and if they fail to do so on two given dates and delays the trial in any manner, their bail will be liable to be cancelled for reasons of misuse.

(iv) That the petitioners will be well represented on each and every date of trial and if they fail to do so on two consecutive dates, their bail will be liable to be cancelled on this ground alone.

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(Mihir Kumar Jha, J)