

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18084 of 2015

Arising Out of PS.Case No. -71 Year- 2012 Thana -KISHUNPUR District- -

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Manoj Gupta @ Manoj Kumar Gupta son of Yogendra Prasad Gupta
resident of village- Fulwaria, Police Station- Kishanpur, District- Supaul

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arun, Adv

For the Opposite Party/s : Mr. Zainul Abedin (App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 17-08-2015 Heard learned counsel for the parties.

Having regard to the nature of allegation against the petitioner for the offences punishable under Sections-376, 120B/34 of the Indian Penal Code and the fact that the petitioner despite being a suspected non-FIR accused, whose complicity had surfaced on 31.05.2012, and yet the police, on the basis of the belated version of the prosecutrix as with regard to the alleged involvement of the petitioner, had not found the case to be true, but the Court below having differed with the finding of the police has taken cognizance, whereafter the petitioner is



facing trial for offence punishable under Section-376 of the Indian Penal Code, this Court would find that when the petitioner has also got no criminal antecedent, he would be entitled for privilege of anticipatory bail primarily because there has been nothing in the case diary to show as to how the prosecutrix after more than 20 days, could recognize the petitioner by mere appearance, when her case was something else in the FIR.

Be that as it may, this Court primarily on account of the petitioner being a non-FIR accused and against him, the police had not filed any chargesheet and his trial has commenced only on account of the court below by differing with the police report would find him entitled for privilege of anticipatory bail.

That being so, if the petitioner namely, **Manoj Gupta**, surrenders within a period of four weeks from today, he would be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of **C.J.M.**



Supaul in connection with **Kisanpur P.S. Case No. 71 of 2012**, subject to the conditions laid down under Section- 438 (2) Cr. P.C and also subject to the following conditions:-

(i) That the court below shall make verification of criminal antecedent of the petitioner and if it is found that he is accused in any other criminal case, he shall not be granted bail and would be taken into custody.

(ii) 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.

(iii) That the bailor 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 bail on the ground of misuse.

(iv) That the petitioner will give an undertaking that he will receive the police papers

on the given date and be present on the date fixed for charge and if he fails to do so on two given dates and delays the trial in any manner, his bail will be liable to be cancelled for reasons of misuse.

(v) 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.

(Mihir Kumar Jha, J)

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