

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18718 of 2015

Arising Out of PS.Case No. -51 Year- 2013 Thana -GOPALPUR District- GOPALGANJ

Radhika Sharan Mishra @ Radhika Saran Mishra @ Radhika Sharma
Mishra. Son of Late Raghuvir Mishra. Resident of village - Bhathwa, Police
Station - Kateya, District - Gopalganj.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh

For the Opposite Party/s : Mr. Parmeshwar Mehta(App)

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 16-06-2015

Heard learned counsel for the parties.

The petitioner facing allegation for offence under
Section 144, 341, 342, 353 of the Indian Penal Code has a cut out
defence that the petitioner was not named in the First Information
Report and there was no material at least before the court below in
rejecting the prayer for anticipatory bail because nothing had
surfaced that the petitioner was even one of amongst more than
200 demonstrating teachers who had allegedly locked the
Informant, District Education Officer in the room along with
Programme Officer, Head and three teachers.

This Court finds force in such submission. The
petitioner was not a named accused in the First Information
Report. The petitioner had also produced the absentee of the

Government Middle School, Bhathwan, Panchdeori, Gopalganj to show that he was present in the school on the day of occurrence.

Though the court below i.e. District and Sessions Judge had called for the Case Diary but that also was not received much less perused for recording any finding as with regard to involvement of the petitioner in the alleged occurrence.

Considering all these aspects, which ought to have been considered by the learned District and Sessions Judge, Gopalganj but has not been done while rejecting the prayer for anticipatory bail of the petitioner, this Court would be inclined to grant privilege of anticipatory bail to the petitioner.

That being so, if the petitioner, namely, Radhika Sharan Mishra alias Radhika Saran Mishra @ Radhika Sharma Mishra surrenders before the court below within a period of four weeks from today, he shall 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 Chief Judicial Magistrate, Gopalganj in connection with Gopalpur P.S. Case No. 51 of 2013, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

(i) That both the bailors will be a close relative of the petitioner, who will undertake 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.

(ii) That the affidavit shall clearly state that the petitioner is not an accused in any other case and if he is, he shall not be released on bail.

(iii) That the bailors 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 be well represented on each and every date in course 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.

Before parting with, this Court must express its displeasure for the irresponsible and casual manner in which the District and Sessions Judge, Gopalganj had passed the impugned order on 11.3.2015 rejecting the prayer for anticipatory bail of the petitioner without recording any finding against the petitioner even when he had not perused the Case Diary and the First Information Report by itself had contained nothing much less any

specified allegation against the petitioner..

Let a copy of this order be sent to the concerned District
and Sessions Judge, Gopalganj for his future guidance.

(Mihir Kumar Jha, J)

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