

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43311 of 2014

Arising Out of PS.Case No. -244 Year- 2005 Thana -MADHEPURA District- MADHEPURA

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Md. Idris S/o Late Abdul Karim Resident of Village-Gaiyari, P.O.+P.S.
and District-Arari.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Singh, Advocate

For the Opposite Party : Mr. M. Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

ORAL ORDER

3 14-05-2015

This is an application, made under Section 438 of the Code of Criminal Procedure, seeking pre-arrest bail by the petitioner, namely, Md. Idris, in connection with Madhepura Police Station Case No. 244 of 2005 under Section 409 read with Section 34 of the Indian Penal Code.

Perused the above application and materials on record including a copy of the order, dated 28.05.2014, passed, in A.B.P. No. 109 of 2014, by the learned Sessions Judge, Madhepura, dismissing the said application for pre-arrest bail.

Heard Mr. Rajeev Kumar Singh, learned Counsel for the petitioner, and Mr. M. Dayal, learned Additional Public Prosecutor, appearing on behalf of 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.

Considering the fact that *charge-sheet* has already been submitted against the petitioner under Section 409 read with Section 34 of the Indian Penal Code and the learned Sessions Judge, having considered the case of the petitioner, has declined to give the petitioner benefit of pre-arrest bail, this Court is of the view that the petitioner, in the facts and attending circumstances of the present case, cannot be given benefit of pre-arrest bail.

Considering the matter in its entirety and in the interest of justice, while declining to grant pre-arrest bail to the petitioner, it is, however, made clear that if the petitioner surrenders in the learned Court below and if, upon his appearance in the learned Court below, the petitioner applies for regular bail, the learned Court below shall, bearing in mind the nature of the ailment, which the petitioner is suffering from, 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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