

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.49957 of 2014**

Arising Out of PS.Case No. -443 Year- 2014 Thana -LAKHISARAI District- LAKHISARAI

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Radhe Shyam Singh Son of Late Jay Narayan Singh Resident of Village-  
Sharma, P.S.-Lakhisaria, Dist.-Lakhisarai

.... .... Petitioner/s

Versus

The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

|                      |   |                                                     |
|----------------------|---|-----------------------------------------------------|
| For the Petitioner/s | : | Mr. Ajay Thakur, Adv.<br>Dr. Anjani Pd. Singh, Adv. |
| For the Informant    | : | Mr. Amit Narayan, Adv.                              |
| For the State        | : | Mr. Khurshid Alam, Adv.                             |

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**CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA**  
**ORAL ORDER**

4      23-07-2015

Heard learned counsel for the parties.

Having regard to the admitted position that the petitioner in course of investigation in connection with an offence under Section 302/34, 120-B of the Indian Penal Code has neither been identified as the assailant nor in connivance with the person on the motorcycle and in view of submission of Mr. Ajay Thakur, learned counsel for the petitioner, that both of such persons have already been identified on being put to Test Identification Parade, this Court, keeping in view that the petitioner at best can be said to be an abettor of the alleged offence would be entitled for grant of privilege of anticipatory bail.

At this stage, learned counsel for the informant submits that the petitioner is absconding and, therefore, in view of the judgment of the Apex Court in the case of *State of Madhya Pradesh*

*Vs. Pradeep Sharma* reported in (2014) 2 SCC 171 is not entitled for grant of privilege of anticipatory bail.

Mr. Thakur in reply has submitted that the ratio of the aforesaid decision will not be applicable to the facts of this case because the petitioner has not been declared to be absconder nor permanent absconder by the court.

Thus, keeping in view the aforesaid submissions, this Court would direct the petitioner, namely, Radhe Shyam Singh to surrender before the court below within a period of four weeks from today and if he do so, 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, Lakhisarai in connection with Lakhisarai P.S. Case No. 443 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

- (i) The court below shall examine as to whether the petitioner has been already declared as an absconder/permanent absconder under Section 82 of the Cr.P.C. and if the court below finds that the petitioner has already been declared absconder/permanent absconder, he shall be taken into custody and will not be granted privilege of bail. On the other hand, if it is

found that he has not been declared absconder/permanent absconder under Section 82 of the Cr.P.C., he shall be released on bail.

(ii) 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.

(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.

**(Mihir Kumar Jha, J)**

Rishi/-

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