

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27576 of 2014

Arising Out of PS.Case No. -131 Year- 2013 Thana -BUXAR MUFFSIL District- BUXAR

Tinku Singh @ Amit Kumar Singh, Son of Shivjee Singh, R/o Village Orap, P.S.- Itarhi, District Buxar

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner : Mr. Anil Kumar Singh, Advocate
Mr. Abhay Kumar Singh, Advocate
For the State : Mr. B.M.P Sinha(APP)
For the I.O.C.L. : Mr. Jitendra Singh, Sr. Advocate
Mr. Krishna Chandra, Advocate

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

4 07-08-2015 Heard learned counsel for the petitioner and the learned counsel for the State.

The petitioner is apprehending his arrest in connection with Buxar(M) P.S. Case No.131 of 2013 for allegedly having committed the offence under Sections 379, 511 of the Indian Penal Code and Sections 15 and 16 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962.

Learned counsel for the petitioner submits that the allegations as made out against the petitioner have no substance since the petitioner was neither named in the F.I.R. nor was he being the part of the crowd, which were engaged in pilfering of

the petroleum product from the pipeline between Barauni and Patna. Learned counsel further submits that the name of the petitioner has surfaced in the confessional statement made before the police by two of the co-accused persons.

Learned counsel for the informant has drawn the attention of this Court to a Gazette notification in which by Section 16D of the Petroleum and Mineral Pipelines (Acquisition of Right of User in Land) Amendment Act, 2011, Section 438 of the Code of Criminal Procedure has been specifically excluded. Section 16D reads as under :

“16 D. Nothing in section 438 of the Code of Criminal Procedure, 1973 shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence punishable under sub-section (4) of section 15.”

A plain reading of the aforesaid section reveals that under sub-section (4) of section 15 in relation to any case involving the arrest of any person on an accusation of having committed an offence under this section, nothing in section 438 of the Code of Criminal Procedure shall apply and as such, this criminal miscellaneous application for grant of pre-arrest bail would not be sustained.

It is submitted by the learned counsel appearing on behalf of the informant that considering the said provisions of law, this Court in Cr.Misc. No.566 of 2015, vide order dated 12.1.2015, has rejected the anticipatory bail application of the petitioner in the said case even though his name has sprung up in the confessional statement of one of the co-accused persons.

Considering the specific provisions of law and also the order passed in the said criminal miscellaneous application, this Court is not inclined to entertain this application. It is, accordingly, rejected.

It is, however, open to the petitioner to seek appropriate remedy in accordance with law on his surrender in connection with Buxar(M) P.S. Case No.131 of 2013 before the court below i.e., in the court of the learned Chief Judicial Magistrate, Buxar.

(Anjana Mishra, J)

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