

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49679 of 2014

Arising Out of PS.Case No. -350 Year- 2013 Thana -SAHAYAK NAGAR District- KATIHAR

1. Md. Anarul S/o Fazlur Rahman R/o village- Hazipur, P.S. - Katihar
Sahayak, District - Katihar

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bidhan Chandra Jha

For the Opposite Party/s : Mr. Abhay Kr. Roy(App)

CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

3 09-07-2015 Heard.

The petitioner is not named in the FIR of Katihar Sahayak P.S.Case No.350 of 2013 under Section 395 Indian Penal Code and he seeks an order under Section 438 Cr.P.C. in connection with that case.

The submission is that the learned Sessions Judge, Katihar has also recorded that the confessional statement of a co-accused has revealed the participation of this petitioner also in commission of dacoity. Submission was that other accused persons whose name had similarly appeared have been granted bail by a Bench of this Court in Cr.Misc.No.7543 of 2014. Submission also was that there was no recovery of any article from the house of the petitioner.



It is true that a Bench of this Court had directed to release the petitioner of Cr.Misc.No.7543 of 2014 on bail under Section 438 Cr. P.C. by order dated 30.06.2014, but as is well known, the orders of bail do not carry precedence value. As such, it is not a binding precedence. In a case under Section 395 IPC, it is the suspicion on which investigation proceeds and arrests are made and during questioning of accused persons more names are revealed who are arrested and put on Test Identification Parade. Not only that the police may after arresting such an accused obtained them on police remand for further questioning in order to getting some more clues for investigating the case properly. If an accused in a case under Section 395 Cr.P.C., in the FIR of which there is generally no name of accused, is admitted to anticipatory bail, the investigation of the case shall be frustrated.

Considering this aspect of the matter, I am not inclined to direct the release of the above named petitioner on anticipatory bail. Petition is dismissed in connection with the above noted case pending in the Court of CJM, Katihar.

(Dharnidhar Jha, J)

B.Kr./-Saif

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