

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11733 of 2016

Arising Out of PS.Case No. -537 Year- 2015 Thana -RUNISAIDPUR District- SITAMARHI

Dilip Sah, aged about 32 years, S/o Mahendra Sah, R/o Village- Olipur,
P.S.- Runni Saidpur, District- Sitamarhi.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar, Adv.

For the Opposite Party/s : Mrs. Asha Kumari, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 08-04-2016

Heard.

The petitioner apprehends his arrest in a criminal prosecution registered under Sections 272, 273 and 308 of the Indian Penal Code as also under Section 47(a) of the Bihar Excise Act, 1915.

Learned counsel appearing on behalf of the petitioner submits that the offences under Section 272 and 273 of the Indian Penal Code are bailable one. However, so far offence under Section 308 of the Indian Penal Code is concerned, that shall not be applicable in the facts and circumstances of the present case. According to him, with respect to the offence under Section 47(a) of the Bihar Excise Act, admittedly, the name of the petitioner has been disclosed by a co-accused before the police. He also contended that co-accused Sitaram Sah with almost identical and similar allegation has already been granted privilege of anticipatory bail by the order dated 10.02.2016 passed in Cr.Misc.No.6398 of 2016 by a co-ordinate Bench of this Court, which has been brought on record as Annexure-2 to the

supplementary affidavit.

Learned Addl.P.P. appearing on behalf of the State, though has opposed the prayer for anticipatory bail, but has not disputed the aforesaid submissions.

Be that as it may, in the facts and circumstances of the present case, and taking into consideration the fact that the petitioner is said to be the first offender, this Court is inclined to accede to the prayer made on behalf of the petitioner for grant of anticipatory bail. Accordingly, his prayer for grant of anticipatory bail is allowed.

In the event of his arrest or surrender in the court below within a period of four weeks from today, let the above named petitioner be enlarged on bail on furnishing bail bond of Rs. 50,000/- (Fifty thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Sitamarhi in connection with Runni Saidpur P.S. Case No. 537 of 2015, subject to the condition as laid down under Section 438(2) of the Cr.P.C. and subject to further conditions that:

(A) One of the bailors must be government servant or close family members of the petitioner, who will file an affidavit in the court below showing his/her relationship with the petitioner,

(B) if the petitioner is found involved in same and similar nature of cases in future, then in that case the informant/prosecution shall be at liberty to file a petition for cancellation of bail of the petitioner, and if such a petition is filed, the court below would be obliged to dispose of the same in accordance with law after giving opportunity of

hearing to all concerned;

(C) the petitioner shall make regular pairvi in the court below in the present case either by appearing himself in person or through representation by his lawyer on each and every date, and if on two consecutive dates petitioner fails to make pairvi, then the court below shall be at liberty to cancel the bail bond of the petitioner.

(Birendra Prasad Verma, J)

Arvind/-

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