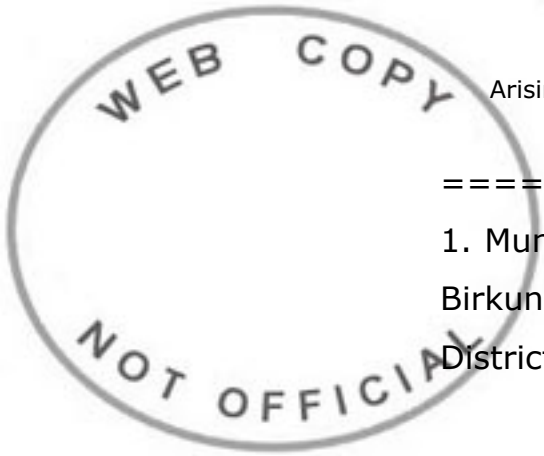




IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19233 of 2016

Arising Out of PS.Case No. -139 Year- 2009 Thana -DURGAWATI District-
BHABHUA (KAIMUR)

=====

1. Munna Singh, Son of Rajendra Singh, Resident of village-
Birkunwar Singh Nagar, Aurangabad, P.S.-Aurangabad,
District-Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Pramendra Kr. Singh, Adv.

For the Opposite Party/s: Mr. Surendra Pd. Singh (APP)

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

2 17-05-2016 Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

 This application, for grant of anticipatory bail,
arises out of Durgawati P.S. Case No.139 of 2009,
disclosing offences under Section 394 of the Indian
Penal Code to which Section 411 of the Indian Penal
Code was also added later on.

 The First Information Report was instituted in

the year 2009. The petitioner was not named in the First Information Report. In course of investigation, on the basis of confessional statement of a co-accused, petitioner's name surfaced in the present case.

It has been stated in paragraph 8 of the present anticipatory bail application that the petitioner learnt about his implication, in the present case, only in the year 2015, when the Bhabhua police arrived at Aurangabad and started implementing the Court's order for attachment of property.

It has been submitted on behalf of the petitioner that co-accused, namely, Satyendra Singh, on whose confessional statement before the police the petitioner's name had surfaced in the present case, has been acquitted by the Court of learned Additional Sessions Judge, Fast Track Court No.-II, Bhabhua, by an order, dated 31.05.2011. Learned counsel, appearing on behalf of the petitioner, has relied on an order of this Court, dated 02.05.2016, passed in Cr. Misc. No.18191 of 2016, whereby, co-accused, namely, Rajnish Singh, has been granted the privilege of anticipatory bail.

However, since it has been stated in paragraph 8 of the present anticipatory bail application

that the petitioner had been declared absconder, his application for anticipatory bail cannot be entertained in view of a Division Bench decision of Supreme Court, in case of **Lavesh Vs. State (NCT of Delhi)**, reported in **(2012) 8 S.C.C. 730**, paragraph 12 of which reads thus:-

"12. *From these materials and information, it is clear that the present appellant was not available for interrogation and investigation and was declared as a "proclaimed offender", there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code he is not entitled to the relief of anticipatory bail."*

This application is, accordingly, rejected.

The petitioner, abovenamed, is directed to surrender before the court below within a period of four weeks from today and seek regular bail, if so advised. If he does so, his application for regular bail shall be

considered by the learned court below on its own merit,
without being prejudiced by rejection of present
application for grant anticipatory bail.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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