

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26534 of 2016

Arising Out of PS.Case No. -128 Year- 2012 Thana -KADWA District- KATIHAR

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Md. Peskar Alam, son of Late Amjad Ali, resident of village Ratni P.S.
Kadwa District Katihar

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Helal Ahmad

For the Opposite Party/s : Mr. Sri Ram Sevak Choudhary

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 01-07-2016 Heard Mr. Md. Helal Ahmad, learned counsel for the
petitioner and Sri Ram Sewak Chaudhary, learned A.P.P.

The sole petitioner who was made accused in the F.I.R.
long back in the year 2012 in which after thorough investigation
police submitted charge sheet has approached this court for grant
of anticipatory bail in connection with Kadwa P.S. Case No. 128
of 2012 registered for the offence under Section 406 , 409 and
420 of the Indian Penal Code.

Learned counsel for the petitioner firstly submits that
the F.I.R. was lodged initially as per the direction of the
concerned District Magistrate whereby initially direction was
issued to recover the amount from the concerned Mukhiya and
Panchayat Secretary and failure to that, direction was given to
institute F.I.R. He submits that the order of the District Magistrate

was subsequently assailed before this court and by this court recovery order was also quashed. Second limb of argument of learned counsel petitioner is that almost in identical situation in other cases accused persons have been extended the privilege of anticipatory bail. He has placed reliance on Annexure – 4 series to the petition whereby this court in different anticipatory bail petitions had granted the privilege.

Learned A.P.P. has opposed the prayer of anticipatory bail.

Besides hearing I have perused the material available on record. In the F.I.R. itself there was specific accusation against the petitioner that being Mukhiya he has misappropriated amount in respect of purchase of solar light. Moreover during investigation accusation was found true and thereafter charge sheet was submitted. Of course in the present petition nothing has been indicated as when charge sheet was submitted but on perusal of the order passed by the learned Additional Sessions Judge whereby his anticipatory bail petition was rejected it is evident that charge sheet was already submitted against the petitioner. On perusal of the order of the learned court below it appears that during investigation witnesses have supported the prosecution case and as such number of paragraphs of the case

diary have been referred by the learned court below. Normally in a criminal case once after investigation charge sheet is submitted there is feeble chance to make a prayer for grant of anticipatory bail. Moreover, it is not an isolated case relating to misappropriation in the purchase of solar light. From the material on record it is evident that for such offence number of F.I.Rs. were lodged. It is true that some of the accused persons have been extended the privilege of anticipatory bail but this court is of the opinion that in a case of misappropriation of public exchequer by such Mukhiya and Panchayat Secretary this court may not take liberal view. I do not find any ground to grant the privilege of anticipatory bail.

The petition stands dismissed.

(Rakesh Kumar, J)

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