

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37569 of 2016

Arising Out of PS.Case No. -79 Year- 2011 Thana -SHEKHPURA COMPLAINT CASE District-
SEKHPURA

- =====
1. Pintu Mahto, Son of Jagdish Mahto, Resident of Village- Bhatha, P.S.-
Kashichak, District- Nawada.
2. Hare Ram Kumar, Son of Sadhu Sharan Mahto, Resident of Village-
Koli, P.S.- Ramgarh, District- Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar
2. Mahto Shailendra, S/o Late Basudeo Mahto, R/o Village- Girihinda,
P.S.+Dist.- Sheikhpura.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bipin Kumar

For the Opposite Party/s : Mr. Shailendra Kumar -1

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

2 09-09-2016 Heard learned counsels for the petitioner and the State.

The petitioner is apprehending arrest in a complaint case wherein process has been directed to be issued under Sections 420,406 and 506/34 of the Indian Penal Code.

The prosecution case is that rupees forty five thousand was paid by the complainant to the co accused Subhash Mahto for installing mobile tower on the promise of being paid rupees five thousand per month as rental of the land.

It is submitted by the learned counsel for the petitioner that the thrust of accusation is against co accused Subhash Mahto. More over, the accused persons have been granted anticipatory

bail vide Cr. Misc. Nos. 6319 of 2012 and 1009 of 2012.

The complaint was filed in 2011. The impugned order dated 24.5.2016 reflects that only summons have been issued hence the learned Sessions Judge disposed of the bail application with a direction to the petitioner to surrender and pray for bail. Contrary to that, statement has been made in paragraph 7 of the petition that on 21.4.2016 the process under section 82 Cr.P.C. has been issued. Hence, in either circumstance either summons have been issue or process under section 82 Cr.P.C. has been issued, this application for anticipatory bail is not maintainable.

In the circumstances, let the learned court below consider the prayer for bail of the petitioner keeping in view of the fact that other co accused have been granted anticipatory bail in case he surrenders within six weeks from today in connection with Complaint Case No. 79C of 2011 pending in the court of learned ACJM II, Sheikhpura.

This application is disposed of with the aforesaid observation/direction.

(Dinesh Kumar Singh, J)

Anil/-

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