

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47215 of 2016

Arising Out of PS.Case No. -20 Year- 2015 Thana -MADHUBANI TOWN District-
MADHUBANI

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1. Samir Dayal Dipak, Son of Sri Lakshmi Paswan, resident
of Village and P.O. Nayagaon, P.S. Raiyam, District-
Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Dr. Ramesh Yadav, Son of Late Ramswaroop Yadav,
resident of Village Paghari, P.S. Baheri, District- Darbhanga.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kr. Thakur
Mr. Shashank Shekhar
Mrs. Babita Kumari

For the Opposite Party/s : Mr. Sadanand Paswan (Spl. PP.)

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

ORAL ORDER

2 13-12-2016 Heard the parties.

By an order, dated 03.09.2016, learned 1st
Additional Sessions Judge, Madhubani, has allowed opposite
party No. 2, the privilege of anticipatory bail, who is an
accused in Town (Madhubani) P.S. Case No. 20 of 2015,



registered for the offences punishable under Sections 341, 342, 323 and 504 read with Section 34 of the Indian Penal Code (*hereinafter referred to as the Indian Penal Code*) and Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act (*hereinafter referred to as the Act*).

It is not the case of the petitioner that after release of opposite party No. 2 on bail, he has ever misused the said privilege. The only plea, which has been taken in the present application, is that on the date when the order granting anticipatory bail was entertained, a Court of competent jurisdiction had taken cognizance of the offences punishable under various sections of the IPC including Section 3(1)(x) of the Act and, therefore, the anticipatory bail ought not to have been entertained by the learned court below, there being bar under Section 18 of the Act.

I have perused the order passed by the learned 1st Additional Sessions Judge, Madhubani. It transpires that though the case was registered for various offences including the offence punishable under Section 3(1)(x) of the Act, the police had submitted *charge-sheet* under Sections 341, 323, 504 and 506/34 of the IPC, whereafter, cognizance was taken under those sections of the IPC as also under Section 3(1)(x) of the Act by the learned Magistrate by an order



dated 18.01.2016.

Learned counsel, appearing on behalf of the petitioner, has further submitted that earlier an application for anticipatory bail was rejected by the Court of learned Sessions Judge, Madhubani, and, therefore, the second application with the same prayer ought not to have been entertained.

I do not find any reason to exercise power, under Section 439(2) of the Code of Criminal Procedure, to cancel the privilege of anticipatory bail, granted to opposite party No. 2 for two (2) reasons. *Firstly*, the order passed by the 1st Additional Sessions Judge, Madhubani, does not suffer from any legal infirmity, as he was not bound by the order taking cognizance, passed by the learned Chief Judicial Magistrate, Madhubani, on 18.01.2016, since learned Chief Judicial Magistrate did not have jurisdiction over the matter in a case under the provisions of the Act. *Secondly*, there is absolutely no allegation of any misuse of the privilege so granted to opposite party No. 2.

There is no merit in this application, which is, accordingly, dismissed.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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