

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42689 of 2016

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Abhay Kumar son of Sri Suresh Singh resident of Mohalla - Bhagwanpur,
Yadav Nagar, Gali No. 3, Police Station - Muzaffarpur in the town and
district of Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Zonal Director, Narcotic Control Bureau, Bihar, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs. Anita Kumari Singh

For the Opposite Party/s : Mr. Sri Shyameshwar Dayal
Mr. Ram Anurag Singh

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 10-11-2016 Heard Sri Akhileshwar Prasad Singh, learned senior
counsel, who was assisted by Smt. Anita Kumari Singh, learned
counsel for the petitioner , learned Additional Public Prosecutor as
well as Sri Ram Anurag Singh, learned Central Government
Counsel who has appeared on behalf of the opposite party no. 2/
Zonal Director , Narcotic Control Bureau, Bihar, Patna.

The sole petitioner apprehending his arrest in Sadar P.S.
Case No. 557 of 2015 registered for the offence under Section
212, 216, 399, 402, 414 of the Indian Penal Code , Section 25(1-
B) a / 26/ 35 of the Arms Act and Section 20 / 22 of the Narcotic
Drugs And Psychotropic Substance Act, has prayed for grant of
bail in the event of his arrest or surrender.



It was submitted by learned senior counsel for the petitioner that petitioner's name has come on disclosure statement made by one of the co-accused. He further submits that in the case Section 399, 402 of the Indian Penal Code has been incorporated but material shows there is no application of such provision. He submits that nothing has been brought on record to suggest that either accused persons who were apprehended or fled away had assembled for preparing for committing dacoity. He has also placed reliance on a judgment of the Apex Court reported in **AIR 1979 SUPREME COURT 1412 (Chaturi Yadav and others versus State of Bihar)**. On aforesaid ground a prayer has been made for extending the privilege of anticipatory bail, whereas learned counsel for the opposite party no. 2 has opposed the prayer for bail.

Besides hearing, I have perused the materials available on record particularly the F.I.R. itself. It is true that petitioner was not apprehended at the spot however on going through the F.I.R. it is evident that one of the co-accused who was apprehended and from possession of some of the accused arms and ammunition as well as from the place about ½ kilogram of Ganja was recovered, one of the accused has disclosed the name of petitioner that he was providing shelter to the accused

and he was providing arms to accused persons. In view of the facts disclosed in the F.I.R. the Court is of the opinion that at least it is not a case for grant of anticipatory bail. So far Chaturi Yadav Case (Supra) is concerned in that case judgment was delivered after trial had already come to conclusion but in the present case the case was at the stage of investigation and as such no reliance can be placed on the said judgment.

The petition stands dismissed.

(Rakesh Kumar, J)

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