

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20024 of 2016

Arising Out of PS.Case No. -470 Year- 2010 Thana -ARARIA District- ARRARIA

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1. Pankaj Kumar Desmukh J.E. Electricity Department Son of Er. PS
Vedagya Resident of A 201 Chankaya Plaza, Kankarbagh Near S.B.I.
Patna 20

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pushpendra Priyedarshi

For the Opposite Party/s : Mr. J.N. ThakurApp)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 20-05-2016

The petitioner is apprehending his arrest in
a case registered for the offences punishable under Sections
287/304(A) of the Indian Penal Code.

The prosecution case is that the petitioner
being Junior Engineer in the electricity supply company was
getting some electrical repair work from one Bajuddin on an
electric pole when he fell down from the pole after being
electrocuted.

It is submitted by learned counsel for the
petitioner that petitioner was granted regular bail by learned
C.J.M since the F.I.R was registered under bailable provisions
of the Indian Penal Code i.e. Sections 287 and 304(A) of the
I.P.C. Subsequently on conclusion of the investigation, final
report(chargesheet) was submitted under Sections 287, 304(A)
of the Indian Penal Code and consequently vide order dated



29.07.2013, learned Chief Judicial Magistrate, Araria took cognizance under the said provisions of the Indian Penal Code. Subsequently summon was issued and ultimately bailable warrant of arrest was issued vide order dated 19.03.2015. Though the petitioner preferred anticipatory bail application before learned Sessions Judge vide ABP No. 378 of 2014 but the same was rejected on 22.10.2014 and thereafter petitioner preferred Cr. Misc. No. 482 of 2015 challenging the order of cognizance, wherein notices were issued vide order dated 31.08.2015 and further proceeding was stayed by a coordinate Bench of this Court. However, ultimately the quashing application was permitted to be withdrawn vide order dated 28.03.2016 with permission to raise all the contentions at the stage of framing of charge by the same coordinate Bench. Hence, the present anticipatory bail application has been preferred.

In view of this Court, once the petitioner was granted regular bail and he furnished the bail bonds he is in the deemed custody of the court, hence the present anticipatory bail application is not maintainable in view of the ratio laid down by the Division Bench of this Court in the case of **Bishundeo Sahu versus State of Bihar reported in 2011(1) PLJR 731**. However, in view of this Court, the issuance of warrant by the learned Magistrate without cancelling the bail bonds of the petitioner can not be held to be justified. The

material available on record does not suggest that bail bonds of the petitioner were ever cancelled by the learned Court below.

In view of the circumstance elaborated above, the anticipatory bail application of the petitioner is not maintainable.

However, since warrant of arrest has been issued though without cancelling the bail bond, let learned Court below consider the prayer for regular bail of the petitioner, if the petitioner surrenders within a period of six weeks in connection with Araria P.S. Case No. 470 of 2010, G.R. No. 2189 of 2010, pending in the Court of learned Chief Judicial Magistrate, Araria.

It is made clear that in such a circumstance the regular bail can only be denied in case of misuse of privilege of earlier bail in view of the ratio laid down in the case of **Mahendra Prasad Singh versus The State of Bihar reported in 2004(3) PLJR 491**. It is expected from the learned Court below to dispose of the regular bail application of the petitioner preferably on the same day.

With the observations above, the application stands disposed of.

(Dinesh Kumar Singh, J)

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