

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30108 of 2016

Arising Out of PS.Case No. -594 Year- 2015 Thana -BETTIAH TOWN District-
WESTCHAMPARAN(BETTIAH)

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Ved Prakash son of Veer Chandra Singh resident of village- Asadpur
Mairava P.S. - Goraul District- Vaishali

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Yogesh Chandra Verma, Sr. Advocate.
Mr. Md. Anis Akhtar, Advocate.

For the Opposite Party : Mr. Satyendra Prasad, APP.

For the Informant : Mr. Bimlesh Kumar Pandey, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 02-12-2016 Heard Shri Yogesh Chandra Verma, learned senior
counsel for the petitioner, Shri Bimlesh Kumar Pandey, learned
counsel for the informant and learned APP for the State.

The petitioner apprehends his arrest in Bettiah Town
P.S. Case No. 594 of 2015 registered for the offences punishable
under Sections 302, 201, 120(B) and 34 of the Indian Penal Code.

The informant alleged that while his brother Zeya
Ahmad was closing his tobacco shop, Santosh Gupta @ Santosh
Kumar Gupta and Ved Prakash, the petitioner with whom there
was business rivalry were insisting his brother to go somewhere.
There was some dispute with regard to money transaction. After
sometime the dead body of his brother was found and the



informant suspected the hands of the petitioner and Santosh Gupta @ Santosh Kumar Gupta.

Learned counsel for the petitioner submits that save and except suspicion there is no material against the petitioner. Similarly situated co-accused Santosh Gupta @ Santosh Kumar Gupta has already been granted anticipatory bail in Cr. Misc. No. 26514 of 2016 on 30.06.2016.

On the other hand, learned counsel for the informant as well as learned APP submitted that the petitioner has already been declared absconder and process under Sections 82 and 83 of the Code of Criminal Procedure have already been issued for the appearance of the petitioner. In view of the judgment rendered by Hon'ble the Supreme Court in case of *State of Madhya Pradesh v. Pradeep Sharma* reported in *AIR 2014 SC 626* the Hon'ble Supreme Court has held that after issuance of process under Section 82 of the Code of Criminal Procedure for appearance of the accused, the anticipatory bail to the accused is not at all justified. On such statements, Shri Yogesh Chandra Verma, learned senior counsel for the petitioner submits that the process etc. under Sections 82 and 83 of the Code of Criminal Procedure have not been issued in accordance with law and therefore the attachment order is without jurisdiction and not binding. The



petitioner cannot be treated as absconder but, in my view the submission is not at all acceptable, once the process etc. is issued and if there is any illegality in order of attachment with a view to procure the appearance of the accused the same order is liable to be challenged in revision petition, until the order stands, the petitioner shall be deemed to be absconding.

Considering the facts aforesaid and in view of law laid down by Hon'ble the Supreme Court in case of *State of Madhya Pradesh v. Pradeep Sharma* (supra), I am not inclined to enlarge the petitioner above named on anticipatory bail. Accordingly, the same is rejected.

If the petitioner, so advised, may surrender before the court below within four weeks from the date of receipt/production of a copy of this order and pray for regular bail taking into consideration that similarly situated co-accused Santosh Gupta @ Santosh Kumar Gupta has already been granted anticipatory bail by this Court and disposed of the bail petition of the petitioner preferably on the same day.

(Prabhat Kumar Jha, J.)

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