

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33401 of 2016

Arising Out of PS.Case No. -366 Year- 2015 Thana -NAWADA District- NAWADA

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1. Md. Javed Son of Md. Kashim Resident of Mohalla- Kotbali Pokhar,
Gebalbigha, P.S.- Rampur, District- Gaya Petitioner

Versus

1. The State of Bihar Opposite Party

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Appearance :

For the Petitioner : Mr. Sanjeev Kumar, Adv.
For the State : Mr. Md. Anzarul Haque Sahara, APP 225
For the informant : Mr. Arun Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 22-12-2016 Heard the learned counsel for the petitioner and the State.

This is a petition for grant of anticipatory bail for offence under Sections 463, 404, 467, 468, 470, 471, 420 and 120B of the Indian Penal Code.

Allegation against the petitioner is that he impersonated himself as Vijay Krishna, son of the informant, and sold HAIWA vehicle by putting forged signature of Vijay Krishna to some other person in spite of the fact that the petitioner had received entire consideration money of the said vehicle from the informant and had executed some document of transfer of HAIWA vehicle in favour of Vijay Krishna, but, after the death of Vijay Krishna taking undue advantage he had sold the same to some other person.

Submission of the petitioner is that there is no evidence of payment of consideration money by Vijay Krishna and the petitioner had genuinely sold the same to some other person the allegation of impersonation and forgery will be looked into at the stage of trial.



The learned counsel for the informant opposed the prayer on the ground that process under Section 82 of the Criminal Procedure Code was issued against the petitioner on 07.08.2016 and process under Section 83 of the Criminal Procedure Code has already been issued on 23.11.2016, therefore, this anticipatory bail is barred in view of the judgment of the Apex Court reported in **(2014) 2 S.C.C., 171 (State of MP Vrs. Pradeep Sharma)**.

The record reveals that the petitioner was not evading the process of Court rather was exercising his right available under the Law under Section 438 of the Criminal Procedure Code by filing a petition on 09.06.2016 before the learned Session's Judge and after refusal of prayer before this Court. It, further, appears that the petitioner has not been declared absconder in the case. Hence, aforesaid case is not helping the informant.

Considering the aforesaid fact, the petitioner, above named, in the event of his arrest or surrender, within four weeks from the date of receipt of this order, be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (rupees ten thousand) with two sureties of the like amount each in connection with **Nawada Nagar P.S. Case No. 365 of 2015** to the satisfaction of the **Chief Judicial Magistrate, Nawadah**, or successor Court, subject to the condition laid down under Section 438(2) of the Criminal Procedure Code.

(Birendra Kumar, J)

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