

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15778 of 2016

Arising Out of PS.Case No. -208 Year- 2011 Thana -MAJHAULIA District- WEST CHAMPARAN
(BETTIAH)

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Ram Dayal Sharma Son of Late Budhan Sharma Resident of Village and
P.O.- Banchhapar, Mohalla- Deo Nagar, P.S.- Mufassil Bettiah, District -
West Champaran

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Ajay Thakur, Advocate
Mr. Shashank Shekhar, Advocate
For the Opposite Party : Mr. Subhash Chandra Mishra (APP)

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL ORDER

2. 26-05-2016

Heard learned counsel for the petitioner

and learned counsel for the State.

The petitioner apprehends his arrest in
relation to Majhaulia P.S. Case No. 208 of 2011
registered under Sections 302, 201/34 of the Indian
Penal Code.

The facts of the case is that a First
Information Report was lodged, *inter alia*, alleging that
one Lal Bihari Sharma had killed his own daughter in
conspiracy with several others. In the First Information
Report, name of one Ram Dayal Sharma was also
mentioned being relative of Lal Bihari Sharma. It is
stated that petitioner though is Ram Dayal Sharma and

is of village Banuchhapar, P.S. – Bettiah (M), West Champaran, is not the same person. The police, after investigation, found that there are two different Ram Dayal Sharma, one Ram Dayal Sharma, son of Late Budhan Sharma, i.e. the petitioner, and other Ram Dayal Sharma, son of Yugeshwar Sharma, the later who is, in fact, related to the accused persons. After investigation, police submitted charge-sheet, but so far as the Ram Dayal Sharma, son of Late Budhan Sharma, i.e. the petitioner, is concerned, police submitted final form not sending him up for trial. All along petitioner was not aware that he was being named in any case. In the meantime, it seems, while other accused persons were applying for bail before this Court, petitioner's name was also included therein with his parentage and some one signed for him and they obtained anticipatory bail. Petitioner not being aware, he did not even concern himself with the said order. Upon charge-sheet being filed, it appears that the Chief Judicial Magistrate disagreed in so far as it related to the petitioner and proceeded to take cognizance. It is then that the petitioner apprehends



arrest and has accordingly moved for anticipatory bail apart from filing another separate application for quashing of the proceedings as against him.

Sri Ajay Thakur, learned counsel appearing on behalf of the petitioner, submits that petitioner had reported the matter to this Court also, but no action was taken. If the petitioner is the same person who had been named earlier and had already obtained bail from this Court, there was no occasion for the petitioner to move again. Police has found two different Ram Dayal Sharmas, one is the petitioner and other a relative of the accused persons. Some mischief or otherwise was taken place when bail was obtained on petitioner's behalf.

Having considered the matter, in my view, when petitioner himself states that he had never moved earlier and someone had filed application falsely in his name, the statement cannot be disbelieved. Inasmuch as, if the petitioner was aware, he would have taken advantage of that bail order at that time itself. I have seen the Vakalatnama filed in the two cases, they are differently signed. The police, upon



investigation, found that they are, in fact, two different persons that should have concluded the matter.

Thus, having considered the matter, in the event of this petitioner's arrest or surrender before the court below within four weeks, let the petitioner, namely, Ram Dayal Sharma son of Late Budhan Sharma, be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand only) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Bettiah, West Champaran, in connection with Majhaulia P.S. Case No. 208 of 2011, subject to conditions laid down under Section 438 (2) of the Code of Criminal Procedure.

(Navaniti Prasad Singh, J.)

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