

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32327 of 2016

Arising Out of PS.Case No. -365 Year- 2015 Thana -TURKAULIYA District-
EASTCHAMPARAN(MOTIHARI)

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1. Ajjul Ansari @ Nanhak Ansari @ Ajeem Ansari @ Ajajul Ansari son of
Late Ramjan Ansari resident of Village- Koraiya, P.S.- Turkauliya, District-
East Champaran, Motihari.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma

For the Opposite Party/s : Mr. Sri Ajay Kumar Jha

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

3 05-10-2016 Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor for the State.

Earlier prayer for bail of the petitioner was rejected
by this court vide order dated 07-10-2015 passed in Cr. Misc. No.
46746 of 2015 taking into consideration the fact of the present
case as well as his criminal antecedent but submission on behalf of
the petitioner is that the petitioner is in jail custody since 12-05-
2015 but uptill now, his case could not be committed to the court
of Sessions. It is further submitted on behalf of petitioner that
Section-413 of the Indian Penal Code is not applicable against the
petitioner and at best, the petitioner may be prosecuted for the
offence punishable under Section-414 of the Indian Penal Code. It

is further submitted that no doubt, petitioner is said to have been made accused in five cases but prior to institution of the present case, no case under Section-413 or 414 of the Indian Penal Code had been registered against him.

Section-413 of the Indian Penal Code says that whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment for life or with imprisonment either for a term which may extend to 10 years and shall also be liable to fine.

The word “habitual” appears in the aforesaid section with some purpose and the aforesaid word “habitual” reflects that before prosecuting a person under the aforesaid section, the said person must be habitual offender of dealing with the stolen property but as submitted by learned counsel for the petitioner that prior to institution of the present case, the petitioner had not been made accused for the offence punishable under Section-413 or 414 of the Indian Penal Code and, therefore, the application of Section-413 of the Indian Penal Code against the petitioner appears to be doubtful.

Considering the above-said facts and circumstances as well as period of detention of the petitioner in jail custody, let the petitioner named above, be released on bail on furnishing bail

bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each in connection with Turkauliya P.S. Case No. 365 of 2015 to the satisfaction of Sri M. K. Shahi, learned Judicial Magistrate-Ist Class, Motihari, East Champaran.

However, the observation given in this order shall not affect the merit of the case and the aforesaid observation has been given by this court only for the purpose of consideration of bail petition.

(Hemant Kumar Srivastava, J)

A.K.V./-

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