

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13432 of 2016

Arising Out of PS.Case No. -387 Year- 2011 Thana -KHAGARIA COMPALINT CASE District-
KHAGARIA

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Asharfi Yadav S/o Late Dorik Yadav, Resident of Village - Hathban, P.S.-
Alauli, District - Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Modi Devi W/o Bijay Rai, Resident of Village - Kuli Para, Malada
Town, P.S. - Malada Town, District - Malada Town (W.B.).

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar

For the Opposite Party/s : Mr. Abhay Kumar No. 1 (APP)

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 01-04-2016

Heard the parties.

Originally the petitioner was made an accused in a criminal prosecution registered under Sections 376 and 379 of the Indian Penal Code, which is evident from the F.I.R. vide Annexure-2, but on close of investigation, police submitted final report, vide Annexure-3, and the criminal case against the petitioner was found to be false. However, on a protest petition filed on behalf of the informant, which has been treated as complaint, vide Annexure-1, cognizance has been taken for an offence under Section 354 of the Indian Penal Code only. Hence, the petitioner apprehends his arrest in the aforesaid criminal case.

Taking into consideration the entire factual matrices as also taking into consideration the fact that the investigating agency has doubted the criminal prosecution against the petitioner, this Court is inclined to accede to the prayer made on behalf of the petitioner for grant of anticipatory bail.

In the event of his arrest or surrender in the Court below

within a period of four weeks from today, let the above named petitioner be enlarged on bail on furnishing bail-bonds of Rs. 25,000/- with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Khagaria, in connection with Complain Case No. 387C/ 2011, subject to the conditions laid down under Section 438(2) Cr.P.C and subject to the further conditions that:

- (A). One of the bailors must be government servant or close family member of the petitioner, who will file an affidavit in the Court below showing his relationship with the petitioner,
- (B). if the petitioner is found involved in same and similar nature of cases in future, then in that case the informant/ prosecution shall be at liberty to file a petition for cancellation of the bail of the petitioner, and if such a petition is filed, the court below would be obliged to dispose of the same in accordance with law after giving an opportunity of hearing to all concerned and
- (C). the petitioner shall make regular pairvi in the court below in the present case either by appearing himself in person or through representation by his lawyer on each and every dates, and if on two consecutive dates petitioner fails to make pairvi, then the court below shall be at liberty to cancel the bail bonds of the petitioner.

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(Birendra Prasad Verma, J)

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