

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50746 of 2012

Arising Out of PS.Case No. -289 Year- 2012 Thana Ara Nawada District- BHOJPUR

=====

Alok Anjan, son of Rajendra Prasad, resident of Mohalla Banstal,
Meerganj, P.S. Arrah Town, Distt. Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Bipin Kumar, son of late Ganpat Choudhry, resident of Mohalla
Dhanpura, P.S. Arrah Town, Distt. Bhojpur.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Dr. Anand Kumar, Adv.
Sanjay Kr. Ghasavey, Adv.

For the State : Mr. A.P.P.

For the Opposite Party No. 2 : Mrs. Anita Kumari Singh, Adv.

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 29-01-2016

Heard learned Counsel for the petitioner and the State.

The petitioner who is the Informant seeks cancellation of anticipatory bail granted by the Sessions Judge, Bhojpur, Ara, to the Opposite Party No. 2 by an order dated 28.11.2012 passed in A.B.P. No. 1198 of 2012.

The facts of the case is that the Opposite Party No. 2 was arrested in the instant case on 16.11.2012 and brought to the Police Station and while he was talking on phone on the Verrandah of the Police Station, he gave the Police a bluff and fled away for which Nawada P.S. Case No. 332 dated 16.11.2012 was instituted under Section 224 of the Indian Penal Code.

The submission of the Petitioner is that when the Opposite

Party was already under arrest there was no question of his application for Anticipatory Bail being maintainable, yet the Sessions Judge, Bhojpur at Ara, despite noting fact of his arrest without giving any reason as to whether the anticipatory bail application was maintainable, merely noted that after going through the arguments of the Parties and in view of the facts and circumstances of the case, the Petitioner deserved anticipatory bail and gave him the privilege.

In my understanding of procedural law, once an accused is arrested, even if not produced before a Judicial authority, no application for Anticipatory Bail would lie.

On this short point, the application is allowed and the Anticipatory Bail granted by the Sessions Judge, Bhojpur, Ara, to the Opposite Party No. 2 by an order dated 28.11.2012 passed in A.B.P. No. 1198 of 2012, is hereby cancelled.

The Opposite Party No. 2, who appears, is directed to surrender before the Court below within a period of two weeks from the date of receipt of this order.

Let this order be placed before the Inspecting Judge for his perusal.

(Anjana Prakash, J)

S.Ali/-

U		T	
---	--	---	--