

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44863 of 2015

Arising Out of PS.Case No. -177 Year- 2015 Thana -BAHADURGANJ District- KISANGANJ

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Akmal @ Hamil, S/o- Qurban Ali, resident of Singhiya Dulali, PS-
Bahadurganj, District- Kishanganj

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Diwakar Sinha

For the Opposite Party/s : Mr. Ahmad Ali(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

10 04-05-2016

Heard learned counsel for the petitioner and the learned

Addl. Public Prosecutor, appearing on behalf of the State.

This application for grant of anticipatory bail arises out of Bahadurganj P.S.Case No. 177/2015, disclosing offences under section 376 of the Indian Penal Code.

Pursuant to the Court's order dated 20.4.2016 the Officer In-charge of Bahadurganj Police Station is personally present.

It has been submitted on behalf of the learned Addl. Public Prosecutor that the case diary has been written upto 22.11.2015, whereafter there is no entry in the case diary. He has also submitted, upon instructions from the Officer In-charge of Bahadurganj Police Station, that on enquiry the informant has been found to have died during the pendency of investigation.

From the order sheet, it transpires that this Court vide



order dated 2.11.2015 had directed for taking no coercive step against the petitioner, while issuing notice to the informant. Peculiarly after the said order, the investigation itself came to a standstill.

Let Superintendent of Police, Kishanganj himself enquire into the circumstance in which the investigation did not progress after 22.11.2015.

As regards present application seeking anticipatory bail in connection with Bahadurganj P.S.Case No. 177/2015 for the offence punishable under section 376 of the I.P.C., learned counsel for the petitioner has submitted that no offence under section 376 of the I.P.C. can be said to be made out on the basis of what has been alleged in the F.I.R. and what has been stated in the statement made under section 164 of the Cr.P.C. He has submitted that physical relationship, the manner in which the same has been alleged, cannot be said to be forcible or out of any inducement, rather it appears to be consensual in nature.

I find some substance in the submissions advanced on behalf of the petitioner.

The petitioner was granted interim protection by the order dated 2.11.2015. There is no material to show that he ever misused the said privilege.

In the above circumstance, this application is allowed.

Let the petitioner, abovenamed, in the event of his arrest/ surrender before the court below within six weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Kishanganj in Bahadurganj P.S.Case No. 177/2015, subject to the conditions as laid down under section 438(2) of the Cr.P.C.

This is subject to the condition that the petitioner shall present himself before the police/ court, as the case may be, as and when required and in the event of failure on his part to appear before the court on two consecutive occasions, his bail bonds shall be liable to be cancelled.

Personal appearance of the Officer In-charge of Bahadurganj Police Station stands dispensed with.

(Chakradhari Sharan Singh, J)

Surendra/-

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