

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31458 of 2016

Arising out of P.S. Case No.167 Year- 2015 Thana -RAFIGANJ District- AURANGABAD

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Subodh Sharma @ Subodh Kumar Sharma, son of Prahlad Sharma, r/o
Village- Dhol, P.S.- Kasma, District- Aurangabad.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Santosh Kumar Singh, Adv.

For the State : Mr. Anil Prasad Singh, A.P.P.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

2 22-08-2016

Heard learned counsel for the petitioner and the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 406, 420 of the Indian Penal Code read with Section 18(A), (B), (C) a (vi), 27 (b), (ii) 28, 28(A) and 27 (d) of Drug and Cosmetic Act, 2008.

The case of the petitioner is that he was not apprehended at the spot. However, the petitioner was noticed by the Police, and thereafter, he was taken in custody and released on police bail.

In that view of the matter, the issue is no longer *res-integra* as the same stands considered and decided in the case of **Mahendra Prasad Singh Vrs. The State of Bihar, reported in 2004 (3) PLJR, 491**, holding that if case is registered under non

bailable Sections against the accused persons and during course of investigation, petitioner is taken in custody by the Police and granted benefit of Police bail under the Provisions of Section 437(2) of the Cr. P.C., then even though, charge sheet is submitted and cognizance is taken for non bailable offence, anticipatory bail application would not be maintainable.

In the facts and circumstances of the case, in my view, since the petitioner is already on Police bail and it is submitted that cognizance has already been taken for the offence under non-bailable Sections, as stated above, he would have to appear before the Court below without any delay. In case the petitioner appears within six weeks, then the Court below shall consider the prayer for bail of the petitioner in accordance with law keeping in view the well established principle that a person who is already on bail, should not be denied such privilege unless there is any allegation of misuse etc.

With this observation, the application stands disposed of.

(Dr. Ravi Ranjan, J)

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