

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15847 of 2017

Arising Out of PS.Case No. -57 Year- 2016 Thana -PALIGANJ District- PATNA

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Dipu Kumar Tiwary , Son of late Baleshwar Tiwary, Resident of Village-
Kab Basantpur, Police Station- Rani Talab (Kanpa) in the District of Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Sri Akhileshwar Prasad Singh
Mr. Bimal Kumar

For the Opposite Party/s : Mr. Sri Ashok Kumar

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

3 06-07-2017 Heard Sri Akhileshwar Prasad Singh, learned senior
counsel, assisted by Sri Bimal Kumar , learned counsel for the
petitioner and Sri Ashok Kumar, learned Additional Public
Prosecutor.

The sole petitioner, apprehending his arrest in Paliganj
P.S. Case No. 57 of 2016 registered for the offence under section
365 of the Indian Penal Code, has prayed for grant of bail in the
event of arrest or surrender.

It was submitted by learned senior counsel for the
petitioner that F.I.R. was lodged against unknown regarding



missing of one Lav Kush Sharma, however during investigation Police apprehended uncle of one Pratibha Kumari @ Ujala Kumari and got his confessional statement recorded but not before the learned Magistrate. He submits that in the confessional statement of Navin Ojha it was shown that the petitioner and accused Navin Ojha had killed the victim namely Lav Kush Sharma. Learned senior counsel for the petitioner further submits that of- course statement of one Ujala Kumari was not got recorded under section 161 of the Cr.P.C., but by committing error of record in the order whereby prayer for anticipatory bail of the petitioner was rejected it has been indicated that Ujala Kumari had also disclosed that she has lastly seen Navin Ojha and this petitioner with the victim on a motor cycle. He submits that during investigation it was found that Ujala Kumari was having love affair with victim Lav Kush Sharma and a case has been made out as if this petitioner was restricting Lav Kush Sharma for continuing with the relation. It was alleged that her uncle Navin Ojha was also preventing her.

In this case earlier vide order dated 15.06.2017 case diary was called for, which has been received and kept on record. By way of referring to paragraph no. 33 of the case diary, Sri Singh, learned senior counsel submits that had there been any



evidence showing that petitioner was also lastly seen with the deceased, the girl namely Pratibha Kumari @ Ujala Kumari would have stated in her application. Pratibha Kumari @ Ujala Kumari was detained in the Police Station and in paragraph no. '33' of the case diary an application which was submitted by Ujala Kumari has been brought on record. By way of referring to paragraph no. '33' of the case diary, learned senior counsel submits that nothing has been indicated regarding any role played by the petitioner nor it has been indicated that the petitioner was seen lastly with the deceased. He further submits that so far confessional statement of Navin Ojha before the Police is concerned, the learned Magistrate has noticed that he was brutally assaulted by the Police in custody and as such no reliance can be placed on such statement. Moreover, confession before Police has got no evidentiary value. He further submits that even the co-accused Navin Ojha, who was detained and forcefully his confessional statement was recorded, has already been granted bail vide order dated 02.12.2016 passed in Cr. Misc. No. 46169 of 2016.

Learned Additional Public Prosecutor has opposed the prayer for grant of anticipatory bail, however he was also not in a position to satisfy the court as to whether the girl Ujala Kumari



had made any statement regarding last seen of the victim with the petitioner or Navin Ojha.

Considering the facts and circumstances, the court is of the opinion that it is a fit case for extending the privilege of anticipatory bail.

Accordingly, in the event of arrest or surrender within a period of six weeks from today, let the petitioner Dipu Kumar Tiwary be enlarged on bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub Divisional Judicial Magistrate , Danapur / concerned court in connection with Paliganj P.S. Case No. 57 of 2016 subject to the conditions as contemplated under section 438(2) of the Code of Criminal Procedure, 1973.

(Rakesh Kumar, J)

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