

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.59260 of 2017

Arising Out of PS.Case No. -197 Year- 2017 Thana -AKBARPUR District- NAWADA

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Raju Kumar son of Krishna Prasad, resident of village- Phulwari Gali,
Warsaliganj, P.S. - Warsaliganj, District - Nawada.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amresh Kumar Sinha, Advocate

For the State : Smt. Asha Devi, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR
SINGH
ORAL ORDER

2 14-12-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The petitioner seeks pre-arrest bail in connection with
Akbarpur P.S. Case No.197 of 2017 registered under Sections 420
of the Indian Penal Code and Sections 7 and 13(1)(d) of the
Prevention of Corruption Act, 1988.

3. In short, the case of the prosecution instituted on the
basis of written information given by the Block Development
Officer, Akbarpur, Nawada is that a video message became viral
in which the petitioner and one Rajesh Ranjan were shown
realizing illegal money from some ladies of village Sheikhpura in
lieu of extending benefits under the Prime Minister Awas Yogna.



4. On the basis of the above information, the petitioner and Rajesh Ranjan have been made accused in the FIR, which was transmitted to the Court of Additional Chief Judicial Magistrate-1, Nawada.

5. As the case was pending before the Court of Magistrate, Nawada the petitioner moved an application for grant of pre-arrest bail before the Sessions Court, Nawada and while hearing the matter, the learned 1st Additional Sessions Judge, Nawada vide order dated 07.10.2017 passed in A.B.P. No.987 of 2017 disposed of the pre-arrest bail application of the petitioner holding the same to be not maintainable as he had no jurisdiction to deal with the cases instituted under the Prevention of Corruption Act, 1988.

6. After the aforesaid order dated 07.10.2017 was passed by the learned 1st Additional Sessions Judge, Nawada, the petitioner preferred the present application before this Court under Section 438 of the Code of Criminal Procedure for grant of pre-arrest bail.

7. In the opinion of this Court, the learned 1st Additional Sessions Judge, Nawada has rightly held the petition filed on behalf of the petitioner to be not maintainable as he is not empowered to deal with the cases under the Prevention of



Corruption Act. It is surprising as to how the police transmitted the FIR to the Court of Magistrate. As the Court of Magistrate has also got no jurisdiction to take cognizance of the offence under the Prevention of Corruption Act, even if the police concludes the investigation and submit their report, the learned Magistrate would not be in a position to pass any order.

8. Keeping in mind the difficulty of the petitioner in pursuing his remedy before the appropriate court, I direct the learned Additional Chief Judicial Magistrate-1, Nawada to immediately transmit the record of Akbarpur P.S. Case No.197 of 2017 to the Court of Special Judge, Vigilance, South Bihar, Patna having territorial jurisdiction over the matter.

9. The entire exercise in this regard must be completed within two days from the date of receipt of a copy of the order. Once the record is transmitted to the Court of Special Judge having jurisdiction over the matter, the petitioner shall be at liberty to file his application under Section 438 of the Code of Criminal Procedure before it.

10. In case such an application is filed, the learned Special Judge shall be required to hear the matter in accordance with law and dispose of the same expeditiously.

11. With the aforesaid observations and directions, the



application is disposed of.

12. The Registry is directed to transmit a copy of the order to the learned Sessions Judge, Nawada forthwith, who shall be required to ensure that the order passed by this Court is complied with and the record is transmitted to the appropriate court within the period stipulated hereinabove.

(Ashwani Kumar Singh, J)

Md.S./-

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