

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.55348 of 2016

Arising Out of PS. Case No.-29815 Year-2014 Thana- PATNA COMPLAINT CASE District-
Patna

Arvind Kumar

... .. Petitioner/s

Versus

State of Bihar & Anr

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Adv.
For the State	:	Mr. J.N. Thakur, APP
For the O.P. No.2	:	Mr. Ram Chandra Prasad Bharti, Adv.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 20-09-2017 Heard learned Counsels appearing on behalf of the
petitioner, informant and State.

The petitioner has renewed the prayer for bail in connection with a complaint case, wherein process has been directed to be issued after cognizance being taken for the offence punishable under Section 498A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

The petitioner had earlier preferred anticipatory bail application vide Criminal Miscellaneous No. 28073 of 2016, which was disposed of vide order dated 21.07.2016, in view of the ratio laid down in the case of **Salim Ansare @ Md. Salim Ansare and Others Vs. the State of Bihar and Another** reported in 2015(3) PLJR 806 (Cr. Misc. No.51075 of 2014),



since it was submitted on behalf of the petitioner that only summons have been issued. However the learned Court below was directed to consider the prayer for bail of the petitioner, preferably, on the same day, if he surrenders within a period of six weeks.

It is submitted by learned Counsel appearing on behalf of the petitioner, that the petitioner has renewed the prayer for bail on the ground that it was wrongly submitted by learned Counsel for the petitioner earlier that only summons have been issued, while the warrant of arrest has been issued much earlier on 17.05.2016 and secondly, the petitioner is making payment of maintenance amount to the complainant and is still ready to reconcile the issue.

Learned Counsel appearing on behalf of the complainant relies upon the order dated 01.09.2016, passed in Complaint Case No. 29815 C/2014, as contained in Annexure-A to the Counter affidavit, which suggests that in pursuance to this Court's order dated 21.07.2016 passed in Criminal Miscellaneous No. 28073 of 2016, the petitioner surrendered before the learned Court below on 01.09.2016 and the prayer for bail was rejected but subsequently, it was found that the petitioner has escaped from the custody of Court which gets



reflected from the order dated 01.09.2016 of the learned Court below. Though learned Counsel for the petitioner denies that the petitioner had surrendered before the learned Court below, but this Court has no occasion to disbelieve the order of the learned Court below, dated 01.09.2016. If the petitioner surrendered before the learned Court below, then he is in deemed custody of the said Court, hence, the anticipatory bail is not maintainable in view of the ratio laid down in the case of **Bishundeo Sahu and Others Vs. State of Bihar and Ors. Reported in 2011(1) PLJR 731.**

Accordingly, this modification application stands dismissed.

However, let the learned Court below consider the prayer for regular bail of the petitioner on merits, without being prejudiced by the order of this Court, if he surrenders within a period of six weeks in connection with Complaint Case No. 29815 C of 2014, pending before the learned Sub-Divisional Judicial Magistrate, Patna.

(Dinesh Kumar Singh, J)

Ashwini/-

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