

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52110 of 2016

Arising Out of PS.Case No. -1001 Year- 2007 Thana -PATNA COMPLAINT CASE District-
PATNA

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Upendra Kumar Mishra, Son of Late Birendra Kumar Mishra, R/o
Dandaspur, P.S.- Janta Bazar, District - Saran at Chapra, presently residing
at Tanki Road, P.S.-. Badarpur, Delhi

.... Petitioner/s

Versus

1. The State of Bihar
2. Arun Kumar Singh, son of Sri Ajay Kumar Singh, R/O Village-Lodipur,
P.S.-Karpi, District-Jehanabad

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Naresh Dixit, Advocate
Mr. Vijay Kumar Mishra, Advocate
For the S t a t e : Mr. Shailendra Kumar Singh, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

11 23-08-2017 Heard learned counsel for the petitioner and the

learned counsel appearing on behalf of the State.

The petitioner is apprehending his arrest in
connection with Protest cum Complaint Case No.1001©/2007,
arising out of Paliganj P.S. Case No.95/2000, for allegedly
having committed the offence under Sections 302 and 201/34
of the Indian Penal Code.

The petitioner has renewed his prayer for
anticipatory bail on the sole ground that certain facts which
were recorded in the ordersheet have been found to be
erroneous.



Pointing out to the post-mortem report, which has been brought on the record, learned counsel for the petitioner submits that though it has been recorded in the ordersheet that the body has mark of injuries, in the post-mortem report, which has been annexed to the present anticipatory application and which has been tallied with the earlier bail application, it appears that a team of Doctors, which had conducted the post-mortem had found no mark of injuries. The erroneous recording in the case diary, which after perusing the earlier one, appears to this Court to be patently wrong in view of the present post-mortem report, which has been produced in this anticipatory application. It is further submitted by the learned counsel for the petitioner that vide Annexure 7, which is an order dated 19.04.2014, Inspector Dilu Lohar, who was posted at the same Thana, has been extended the privilege of anticipatory bail. It is thus submitted that the petitioner having since superannuated from service may be extended the privilege of anticipatory bail as report of the Commission of Enquiry also exonerates the police officers.

Having considered the matter in its entirety and in the interest of justice, it is, therefore, directed that the petitioner, above named, in the event of his arrest or surrender



before the court below within a period of four weeks from the date of receipt/production of a copy of this order, 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 learned Additional Chief Judicial Magistrate, Danapur, in connection with Protest cum Complaint Case No.1001©/2007, arising out of Paliganj P.S. Case No.95/2000, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

It is further directed that the petitioner shall appear before the court on each and every date in the trial as the matter is of the year 2000. It is further directed that one of the bailors of the petitioner shall be a blood relative of the petitioner. It is further directed that other surety will be executed by a Government servant who will be posted at Patna.

It is made clear that in the event of the petitioner's absence from trial for more than two dates without reasonable cause and leave granted by the trial court, the benefit of anticipatory bail granted to him shall be revoked and he will be taken into custody.

Let the report of the Commission of Inquiry in two



volumes sent from the Special Secretary, Home Department
(Special Branch), Government of Bihar be returned back to the
concerned office forthwith.

(Anjana Mishra, J)

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