

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12197 of 2016

Arising Out of PS.Case No. -331 Year- 2012 Thana -HAJIPUR SADAR District-
VAISHALI(HAJIPUR)

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SURENDRA THAKUR, S/o- Late Mishri Thakur, Resident of Village-
Hussainganj, P.S- Barh, District- Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arvind Prasad Singh, Advocate

For the Opposite Party/s : Mr. Yogendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 15-02-2017 Heard learned counsel for the petitioner and the State.

The petitioner has renewed the prayer for anticipatory bail in connection with Hazipur Sadar P.S. Case No.331/2012 under sections 420, 468, 471, 223, 224 and 120B of the Indian Penal Code, pending before the learned CJM, Hazipur, Vaishali on the ground that a notice was issued to the petitioner by the I.O. under section 41A of the Code of Criminal Procedure and the petitioner appeared in pursuance to the same before the police, hence, it may be treated as police bail.

The accusation is of releasing an accused from jail on forged bail order. Considering the nature of accusation, this Court disposed of the earlier anticipatory bail vide order dated 03.05.2013 passed in Criminal Miscellaneous No.14806/2013.



Section 41A of the Cr.P.C. has been enacted to check the misuse of the provisions of arrest without warrant under section 41(1) of the Cr.P.C. The Provision under section 41A of the Cr.P.C. stipulates issuance of notice when the police is not required to arrest a person under section 41(1) of the Cr.P.C. Provision of police bail is only incorporated under sections 169(1) or 437(2) of the Code of Criminal Procedure. Unless a person goes into custody he cannot be released on police bail with issuance of notice under section 41A of the Cr.P.C. to any person or his consequent appearance before police does not amount to police bail.

Hence, the ground for renewal of prayer for anticipatory bail is misconceived. This is also a settled view that in case of police bail the anticipatory bail application is not maintainable. Reference may be made to the judgment of this Court rendered in the case of *Mahendra Prasad Singh Vs. State of Bihar* reported in 2004 (3) PLJR 491.

Accordingly, the application is dismissed.

(Dinesh Kumar Singh, J)

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