

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41383 of 2017

Arising Out of PS.Case No. -29 Year- 2013 Thana -KOPA District- SARAN

=====

1. Amit Kumar Yadav Son of Shiv Shankar Yadav, R/o village- Dhanuki,
P.S.- Kopa, District- Saran.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Harish Kumar

For the State : Mr. Binod Kumar No. 3 APP

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 10-10-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner apprehends his arrest in connection
with Kopa P.S. Case No. 29/2013 registered for the offences
punishable under Sections 406 and 420 of the Indian Penal Code.

In the F.I.R., it has been mentioned that the money
was taken for different purposes with the commitment that the
same will be returned with the interest, but the money was not
returned to the informant led to lodging the case.

It appears from the record that the petitioner has
been given the benefit of police bail as provided under Section
41(1) of the Cr.P.C. Now, further he has approached this Court for
anticipatory bail after submission of the charge sheet. Once the



petitioner has taken the benefit of bail by way of police bail, now he cannot claim the benefit of anticipatory bail.

Learned counsel for the petitioner has placed reliance on the judgment passed in Cr. Misc. No. 6229/2015, wherein, it has been held that if from the beginning the case is of non-bailable offence and the person, who has taken benefit of police bail, subsequently he cannot take the benefit of anticipatory bail and the Court has refused to entertain the same, but in the last para, in terms of the Court's order, it has been stated that if the petitioner appears before the court below within six weeks, the concerned court shall consider his prayer for bail in accordance with law keeping in view that the petitioner was already granted benefit of police bail, shall not be denied such privilege unless there is any allegation of misuse etc.

Accordingly, the prayer for anticipatory bail of the petitioner above named is rejected with a liberty to surrender before the court below within a period of four weeks from today and pray for bail and the court below will consider the same in accordance with law taking into consideration of taking benefit of police bail as petitioner has not misused the privilege of bail.

(Shivaji Pandey, J.)

Rakhi

U		T	
---	--	---	--

