

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13879 of 2017

Arising Out of PS.Case No. -292 Year- 2015 Thana -MADHUBAN District-
EASTCHAMPARAN(MOTIHARI)

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1. Randhir Kumar Singh @ Randhir Singh Son of Sri Bindeshwar Singh,
Resident of Village- Bajitpur Tola, P.S.- Madhuban, District- East
Champaran Petitioner

Versus

1. The State of Bihar Opposite Party

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Appearance :

For the Petitioner : Mr. Vaidehi Raman Prasad Singh, Adv.
For the Opposite Party : Smt. Asha Kumari, APP 197

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 03-08-2017

It appears that the petitioner had moved this Court for grant of anticipatory bail in connection with Madhuban P.S. Case No. 292 of 2015 in Cr. Misc. No. 49365 of 2016.

In paragraph 8 of the bail application (Cr. Misc. No. 49365 of 2016), the petitioner had stated that the police during the course of investigation released the petitioner on personal bond under Section 41(A) of the Code of Criminal Procedure. However, after submission of the charge sheet in the case, the petitioner apprehends his arrest.

By order, dated 13.12.2016, passed in Cr. Misc. No. 49365 of 2016, this Court dismissed the prayer for anticipatory bail as not maintainable for the reason that the petitioner was already on police bail. This Court, however, directed that in the event of appearance of the petitioner after cognizance the Court below shall consider the prayer for bail of the petitioner in the light of the judgment of this Court reported in **2004(3) P.L.J.R., 491 (Mahendra Prasad Singh, Vrs. The State of Bihar)** wherein this Court had directed the Magistrate to consider the prayer for regular bail favourably specially when there was no allegation of



misuse of privilege of bail.

The petitioner did not appear before the learned Court below after that order nor challenged the same rather filed Cr. Misc. No. 5758 of 2017, again, for anticipatory bail in the guise of recall of order, dated 13.12.2016, passed in Cr. Misc. No. 49365 of 2016.

Order, dated 14.02.2017, passed in Cr. Misc. No. 5758 of 2017, vide Annexure 2, reveals that the said application was dismissed as withdrawn, after some arguments. Thereafter, the present application has been filed, again, under Section 438 of the Code of Criminal Procedure on the ground that in fact the petitioner was not on police bail.

The report of the learned trial Judge reveals that the petitioner was released on execution of his personal bond by the police in exercise of power under Section 41(A) of the Code of Criminal Procedure.

After hearing the learned counsel for the petitioner, I am of the view that the petitioner appears to be abusing the process of the law.

Hence, this application is dismissed with costs of Rs.15,000/- (rupees fifteen thousand) to be deposited with the Victims' Compensation Fund within ten days, failing which the Court below shall take action for recovery of the same according to law as fine.

(Birendra Kumar, J)

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