

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24568 of 2017

Arising Out of PS.Case No. -97 Year- 2011 Thana -AWTARNAGAR District- SARAN

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Bablu Singh @ Banhkatta, S/o Late Sachidanand Singh, a Resident of
Village-Machhuani, P.S.-Awatarnagar, District-Saran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Harish Kumar, Advocate.

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 08-06-2017 Heard Sri Harish Kumar, learned advocate appearing
on behalf of the petitioner, and Sri Damodar Prasad Tiwary,
learned A.P.P. for the State.

The petitioner is apprehending arrest in Awatarnagar
P.S. Case No. 97/2011 initially registered under Sections 364/34
of the Indian Penal Code in which later on Sections 302 and 201
of the Indian Penal Code were also added.

The petitioner is named in the F.I.R. and there is an
allegation that the three persons as also this petitioner took away
the son of the informant and then he became traceless. The case is
that of the year 2011 in which the petitioner filed his first
Anticipatory Bail application before the learned Sessions Judge,
Saran at Chhapra vide A.B.P. No. 155/2014. The learned Sessions



Judge rejected his prayer for anticipatory bail on 24.04.2014 clearly stating therein that the petitioner is also an accused in one Bheldi P.S. Case No. 107/2010 under Section 392 of the Indian Penal Code. It is further stated in the impugned order that chargesheet has been submitted against others showing the petitioner an absconder.

This Court is shocked on the conduct of the petitioner and, therefore, straightway put a question to the learned counsel for the petitioner that as to why in a case of the year 2011 where the petitioner is absconding and his first application for anticipatory bail was rejected almost more than three years back, this Court should exercise its discretion in his favour? The answer is that the petitioner is a poor person. Save and except the same, there is no other explanation. This Court is of the opinion that the petitioner, who is having criminal antecedent, is not a law abiding person and being an absconder cannot deserve the benefit of anticipatory bail.

At the same time, this Court also feels that despite there being a provision under Section 438 (1-B) in the Code of Criminal Procedure, the State is failing in its duty in taking appropriate steps in terms of the aforesaid provision against the absconding accused. Section 438 (1-B) of the Code of Criminal Procedure reads as under:-



“(1-B) The presence of the applicant seeking anticipatory bail shall be obligatory at the time of final hearing of the application and passing of final order by the Court, if on an application made to it by the Public Prosecutor, the Court considers such presence necessary in the interest of justice.”

While rejecting the prayer for anticipatory bail of the petitioner and directing him to surrender within a period of two weeks from today, this Court would also direct that the Senior Superintendents of Police in the State of Bihar be sent a copy of this order so that they can take some steps/efforts in this direction which will be in the interest of justice.

The application is accordingly disposed of.

(Rajeev Ranjan Prasad, J)

Dilip, AR

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