

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41604 of 2017

Arising Out of PS.Case No. -201 Year- 2017 Thana -KOTWALI District- PATNA

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Md. Faizan Kalim, S/o Late Md. Kalim @ Md. Lalim, Resident of Mohalla-
Kaziana, P.S.- Bahera, District- Darbhanga.

.... Petitioner

Versus

1. The State of Bihar.

2. The Patna High Court through its Registrar General, Patna.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa, Advocate

: Mr. Shailesh Kumar, Advocate

For the Opposite Party/s : Mr. Lakshmi Kant Sharma, APP

For the High Court : Mr. Satyabir Bharti, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 20-09-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks pre-arrest bail in connection
with Kotwali P.S. Case No. 201 of 2017 registered under
Sections 196, 197, 200, 205, 419 and 420 of the Indian Penal
Code (for short 'the IPC')

The petitioner has been made an accused on the
ground that he has signed an affidavit in bail application bearing
Cr. Misc. No.54263 of 2016 as being deponent for Md. Rasid @
Rashid languishing in jail in connection with Muzaffarpur Town
P.S. Case No.612 of 2015. The case has been filed against the



petitioner upon a direction of this Court in Cr. Misc. No.54263 of 2016.

It is submitted by Mr. Ashhar Mustafa, learned counsel for the petitioner that the petitioner is a young boy of 24 years of age and after completing his Bachelor of Dental Science he is intending to pursue Masters in Dental Surgery. He came to know that his brother-in-law is in custody in Muzaffarpur Town P.S. Case No.612 of 2015 and had gone to meet him in jail in Septemebr 2016. There he came to know that petition for bail of his brother-in-law has been rejected by the court below in August, 2016, but no information was given to him regarding filing of any bail application before this Court. It is submitted that the petitioner had also gone to meet his sister at her Sasural in Muzaffarpur who started crying and came to her *Maikey* with the petitioner in October, 2016 and thereafter it was decided to move bail application before this Court on behalf of Md. Rashid and out of sheer love and affection towards his younger sister, who is deaf and dumb, the petitioner came forward and filed Cr.Misc. No. 64263 of 2016 before this Court. He submitted that in good faith a statement was made on oath that Md. Rashid has not filed any application for anticipatory bail or regular bail in connection with the instant case in this Hon'ble Court on any



earlier occasion prior to the present one. He submitted that the moment the petitioner came to know that Cr. Misc. No.45815 of 2016 had already been filed prior to filing of Cr.Misc. No.54263 of 2016 on behalf of the aforesaid Md. Rashid and two others in which affidavit was filed by one Mahtab Alam, cousin of another accused Vikki @ Md. Wasim @ Wasim, the petitioner requested his Advocate on record to withdraw the case bearing Cr. Misc. No.54263 of 2016, but the case was listed under the heading “For Orders” and pursuant to the direction of this Court an FIR has been instituted against the petitioner. He submitted that the offences alleged in the FIR under Sections 196, 197, 200, 205 and 419 of the IPC are bailable in nature and only non-bailable offence alleged against the petitioner is under Section 420 of the IPC, ingredients of which are not attracted in the facts and circumstances of the case.

On the other hand, learned counsel for the State has submitted that though the other offences are bailable, the ingredients of the offence punishable under Section 420 of the IPC are clearly attracted in the present case. He contended that the petitioner had made a false statement on oath while filing the bail application of one Md. Rashid.



Supporting the contentions advanced by the learned counsel for the State, Mr. Satyabir Bharti, learned counsel appearing on behalf of the High Court contended that even though the ingredients of the offence punishable under Section 420 of the IPC may not be attracted in the present case, in the facts and circumstances of the case, a case of cheating, which is punishable under Section 417 of the IPC is clearly made out against the petitioner.

Be that as it may, as all the offences including Section 417 of the IPC are bailable in nature as also the petitioner Md. Faizan Kalim has got no criminal antecedent and has got roots in the society, under the facts and circumstances of the case, in the event of arrest or surrender in the court below within six weeks from today, he is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Patna in connection with Kotwali P.S. Case No. 201 of 2017 subject to the conditions as laid down under Section 438(2) Cr. P.C.

(Ashwani Kumar Singh, J.)

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