

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53855 of 2018

Arising Out of PS.Case No. -357 Year- 2017 Thana -MANER District- PATNA

=====

1. Vinod Rai, Son of Vishwanath Rai, resident of Jamunia Tola Madhopur
Police Station Maner, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Babita Kumari

For the Opposite Party/s : Mr. Sri Panchanand Pandit

=====

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR
TRIVEDI

ORAL ORDER

2 13-09-2018 Heard learned counsel for the petitioner, counsel appearing on
behalf of the Additional Public Prosecutor.

The petitioner apprehends his arrest in connection with Maner
P.S. Case No.357 of 2017 registered under Sections 399, 402, 34 of
the Indian Penal Code and 25(1-b)/26 of the Arms Act.

On getting confidential information with regard to assemblage
of anti social elements, a raiding party was constituted and then raid
was conducted, during course of which, three persons were
apprehended while remaining managed to escape. The persons so
apprehended namely, Hariom, from whose possession countrymade
loaded pistol was recovered, Vishal Kumar from whose possession
loaded countrymade pistol was recovered while from Vikas @ Vinay
nothing have been recovered. A motorcycle has also been recovered.



On interrogation, they have disclosed names of their associate and one of them is the petitioner.

Learned counsel for the petitioner has submitted that the name of petitioner cropped up on account of confessional statement of co-accused and that being so, it happens to be a good case for grant of an anticipatory bail. It has further been stated that on similar footing one co-accused Amar Lal Rai @ Amar Rai has been granted anticipatory bail vide order dated 03.05.2018 passed in connection with Cr. Misc. No.13864 of 2018. That being so, petitioner should also be released on an anticipatory bail.

On the other hand, the learned Addl. P.P. opposed the prayer for bail.

From para 3 of the petition, it is apparent that petitioner has got chequered history being accused in five case since before excluding the present. While granting anticipatory bail what are the conditions to be considered by the Court has been laid down by the Hon'ble Apex Court in the case of *Bhadresh Bipinbhai Sheth vs State Of Gujarat 2016 (1) SCC 152* and after discussing the relevant judgment, it has been laid down as follows :-

“25.10. We shall also reproduce para 112 of the judgment wherein the Court delineated the following factors and parameters that need to be taken into consideration while dealing with anticipatory bail:

- (a) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- (b) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court



- in respect of any cognizable offence;
- (c) The possibility of the applicant to flee from justice;
 - (d) The possibility of the accused's likelihood to repeat similar or other offences;
 - (e) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;
 - (f) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;
 - (g) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of [Sections 34](#) and [149](#) of the Penal Code, 1860 the court should consider with even greater care and caution, because overimplication in the cases is a matter of common knowledge and concern;
 - (h) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused;
 - (i) The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;
 - (j) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

From the conduct of the petitioner coupled with incident which probabilities induction of the petitioner in similar activity, does not deserve anticipatory bail. Accordingly, prayer for anticipatory bail is rejected.

Sanjeev/-

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

(Aditya Kumar Trivedi, J)

