

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.70856 of 2018

Arising Out of PS. Case No.-416 Year-2013 Thana- AURANGABAD TOWN District-
Aurangabad

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Mushtaque Ahmad @ Md. Mushtaque Ahmad, Son of Late Md. Halim,
Resident of Village- Darji Mohalla- P.S.- Towan, District- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajnish Kumar Choubey
For the Opposite Party/s : Mr. Nawal Kishore Prasad

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 18-12-2018 Heard learned counsels for the petitioner and the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 406 and 420 of the IPC.

The accusation against the petitioner being the employee of the informant is that he misappropriated Rs. 6,00,000/-.

A supplementary affidavit has been filed by learned counsel for the petitioner making specific statement in paragraph no.3, that the petitioner was on police bail. Paragraph no.3 reads as follows:-

“That the petitioner was arrested by the police in June-July, 2014 itself and he was enlarged on bail by the police on the same day after furnishing bail bond



of Rs. 50,000/- taking into account him physical, mental condition.”

Since in such a circumstance, the petitioner is deemed to be under custody of police, the present anticipatory bail application is not maintainable.

In the circumstances, let the learned Court below consider the prayer for regular bail of the petitioner if he surrender within a period of six weeks, in view of the ratio laid down in the case of Mahendra Prasad Singh Vs. State of Bihar, reported in 2004(3) PLJR 491.

Accordingly, the present application is disposed of in connection with Aurangabad Town P.S. Case No. 416 of 2013, pending in the court of learned Chief Judicial Magistrate, Aurangabad.

(Dinesh Kumar Singh, J)

Amrendra/-

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