

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.59665 of 2017

Arising Out of PS.Case No. -160 Year- 2015 Thana -MUSAHRI District- MUZAFFARPUR

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1. Awadhesh Rai S/o Mukhlal Rai resident of village - Mushahari
Radhanagar, P.S. Mushahari, District Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar @ S.K., Adv.

For the Opposite Party/s : Mr. Sri Ramchandra Sahani, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3 23-01-2018

Heard learned counsel for the petitioner and the State.

The petitioner apprehends arrest in Mushahari P.S. Case
No. 160 of 2015 (G.R. No. 5049 of 2015) instituted for the offence
under Sections 376/511 of the Indian Penal Code.

There is general allegation against the petitioner that he
attempted to commit illegal act with the informant. It has been
mentioned in para-7 of the bail petition that both parties were on
inimical terms. The Sessions Judge, Muzaffarpur has rejected the
prayer for anticipatory bail of the petitioner on the ground that
anticipatory bail is not maintainable because petitioner was given
benefit of Section 41(1)(a) of the Cr.P.C.

This Court is of the view that the benefit given by the police
under Section 41(1)(a) of the Cr.P.C. does not amount to grant of bail
by the police. Therefore, such view of the Sessions Judge, Muzaffarpur



was not correct.

Since the petitioner has already been granted benefit of Section 41(1)(a) of the Cr.P.C. and charge-sheet has already been submitted, the petitioner is directed to surrender before the court below and make prayer for regular bail which shall be disposed of by court below on the same day, keeping in view that there is general and omnibus allegation against the petitioner and he was given benefit of provision of Section 41(1)(a) of the Cr.P.C. and he has never misused the aforesaid privilege.

This application is accordingly disposed of.

(Sanjay Priya, J)

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