

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4852 of 2020

Arising Out of PS. Case No.-327 Year-2019 Thana- SABAUR District- Bhagalpur

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RAMAN YADAV @ RAMAN KUMAR S/o Kapil Yadav @ Kapilesh Yadav
Resident of Village- Mayagunj, P.S.- Barari, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Swapnil Kumar Singh, Advocate
For the Opposite Party/s : Mr.Umeshanand Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

5 30-09-2020 Heard Mr. Swapnil, learned Counsel for the

petitioner and Mr. Umeshanand Pandit, learned Additional

Public Prosecutor for the State.

The petitioner is apprehending his arrest in connection
with Sabour P.S. Case No.327 of 2019 registered for the
offence under Sections 302, 201, 120B, 34 IPC and Section 27
of the Arms Act.

Learned counsel for the petitioner submits that earlier
the petitioner surrendered but his application was rejected by the
Chief Judicial Magistrate holding that his application is
premature as he was neither named in the FIR nor there was any
processes issued against the petitioner. Subsequently, the
petitioner filed application for anticipatory bail and not regular
bail when the materials surfaced against the petitioner. The



application for anticipatory bail was rejected. The petitioner thereafter approached this Court.

On perusal of the case diary by the Court it came to the notice of this Court that in paras 57 onwards the IO has noted that the petitioner has surrendered on 11.12.2019. Noticing the aforesaid fact, the Court asked the S.P. Bhagalpur to file specific affidavit as to the authenticity of the entries made in paras 57 onwards of the case diary.

Now counsel for the petitioner submits that he has not brought to the notice of the Court that on 11.12.2019 the petitioner did surrender before the Chief Judicial Magistrate and his application for bail on surrender was rejected holding it as premature. The petitioner filed a supplementary affidavit after the order dated 10.07.2020 passed in this case.

From the affidavit of the Superintendent of Police, Bhagalpur it transpires that in para 57 entry was made only on the basis of verbal information and thereafter filed charge sheet. Later on the I.O. became wiser and realizing that he has not only committed mistake in recording statement in case diary but also submitted charge sheet and made application in the Court acknowledging mistake about petitioner's



custody. This is how the investigation was completed in this case.

In the aforesaid circumstances, the Court is of the considered view that the petitioner, who, at the very first instance, surrendered before the Chief Judicial Magistrate for grant of regular bail, shall be relegated to the court below for regular bail.

Accordingly, the application for anticipatory bail is rejected.

However, liberty shall be available to the petitioner to surrender before the Court below and pray for regular bail. In the event the petitioner surrenders and prays for regular bail, the Court below shall consider and dispose of his application for regular bail on the same day without being prejudiced by the refusal of anticipatory bail by this Court.

The processes, if any, issued in the mean while, by the court below, shall not cause prejudice to the petitioner at the time of consideration of his application for regular bail by the court below.

(Anil Kumar Upadhyay, J)

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