

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.6345 of 2020**

Arising Out of PS. Case No.-71 Year-2019 Thana- BITHAN BAZAR District- Samastipur

RAM DULAR MAHTO @ RAM DULAR NMAHTO Son of Siyaram Mahto
@ Aghanu Mahto Resident of Village- Pusaho, P.S.- Bithan, District-
Samastipur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar, Adv.

For the Opposite Party/s : Mr.Jai Narain Thakur, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

5 21-08-2020 Heard learned counsel for the petitioner and Mr. Jai
Narayan Thakur, learned APP for the State.

Petitioner in the present case is seeking pre-arrest bail
in connection with Bithan P.S. Case No.71 of 2019 registered
for offence under Sections 147, 148, 307, 323, 324, 341, 342
and 379 of the Indian Penal Code and Section 27 of the Arms
Act.

By filing a supplementary affidavit petitioner has
placed on record Annexure '4' which is said to be a bond
executed by the petitioner before the investigating officer. In
this regard a statement has been made that the petitioner has
been released on personal bond under Section 41 of the Code of
Criminal Procedure by the police officer on 20.02.2020.



In course of argument when query was made by this Court as to whether Section 41 prescribes for release of an accused on personal bond, learned counsel for the petitioner submits that according to him there is no such provision under Section 41 Cr.P.C. but such a provision exists under Section 169 of the Code of Criminal Procedure where the investigating officer finds that there is no reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate who is in custody, he may release him on executing a bond with or without sureties and such officer may direct the accused to appear if and when so required before a Magistrate empowered to take cognizance of the offence on a police report and to try the accused or commit him for trial.

Learned APP for the State submits that since the petitioner has been released on bond, it is immaterial whether investigating officer has done it under Section 41 Cr.P.C. or under Section 169 Cr.P.C. Learned APP submits that at present the petitioner has no apprehension of his arrest and as such the prayer for anticipatory bail need not be entertained.

Having regard to the facts and circumstances of the case agreeing with the submission of learned APP for the State, this Court is of the opinion that once the petitioner has been



released from custody on execution of bond, the apprehension of arrest is no longer there to the petitioner.

This application has, thus, become infructuous and is disposed of accordingly.

In case, at a subsequent stage the petitioner appears before the learned Court below after submission of the police report and prays for bail, his prayer for bail shall be considered by the learned court below keeping in view the judicial pronouncements on the subject. It will be open for the petitioner to raise all such submissions and cite case laws which may be available to him.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

