

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20554 of 2020

Arising Out of PS. Case No.-175 Year-2018 Thana- NAANPUR District- Sitamarhi

Md Mustafa, Son of Md. Farjan, Resident of Village - Yadupatti, P.S. -
Nanpur, District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar- Advocate

For the Opposite Party/s : Mr. Ram Priya Sharan Singh- P.P. Incharge

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

4 11-11-2020 Heard learned counsel appearing for the petitioner as well as learned Additional Public Prosecutor appearing for the State through video conferencing.

Petitioner apprehends his arrest in connection with Nanpur P. S. Case No.175 of 2018 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 324, 354, 379, 504 and 506 of the I.P.C.

Earlier, the petitioner approached this Court for grant of anticipatory bail by filing Cr. Misc. No.7567 of 2019, which was disposed of by a Coordinate Bench of this Court directing the petitioner to surrender before the Court below and seek regular bail as the petitioner was granted benefit of Section 41(1) of the Cr.P.C.



Learned counsel appearing for the petitioner submits that, as a matter of fact, after institution of the above stated case, notice was sent to petitioner under Section 41(A) of the Cr.P.C. and in response to the aforesaid notice, petitioner appeared before the concerned Investigating Officer, who after making some query from the petitioner, permitted the petitioner to leave the police station and, as a matter of fact, neither petitioner was arrested nor he was compelled to execute bonds by the concerned Investigating Officer. Learned counsel for the petitioner further submits that after investigation, police submitted charge-sheet against the petitioner for the offence punishable under Section 354 and other minor sections of the I.P.C. and the Court below has taken cognizance of the offence as a result of which, being compelled with the above stated changed circumstances, petitioner again approached this Court.

Learned counsel appearing for the petitioner submits that at the time of passing order dated 01.05.2019 in Cr. Misc. No.7567 of 2019, the Coordinate Bench of this Court was under impression that the petitioner was granted benefit of Section 41(1) of the Cr.P.C. and that was the reason, the Coordinate Bench gave the observation as stated above.

On the other hand, learned Public Prosecutor



Incharge opposed the prayer submitting that the prayer of anticipatory bail of petitioner was rejected on 01.05.2019 by this Court with direction to petitioner to surrender and seek regular bail, but petitioner did not comply with the direction of this Court and, therefore, petitioner does not deserve the privilege of anticipatory bail.

The perusal of Paragraphs-6, 7 and 8 of the supplementary affidavit goes to show that only notice under Section 41(A) of the Cr.P.C. was served upon the petitioner and in response thereof, he appeared before the Investigating Officer. The petitioner has also pleaded that he was never granted benefit of Section 41(1) of the Cr.P.C. nor he executed any bond before the police.

Admittedly, except Section 354 of the I.P.C., the charge-sheet has been submitted against the petitioner under bailable sections and so far as the allegation of Section 354 of the I.P.C. is concerned, the same is not against the petitioner.

Considering the aforesaid facts and circumstances of the case as well as submissions of the parties, this anticipatory bail petition is allowed and it is ordered that petitioner, in the event of his arrest/ surrender within six weeks from the date of receipt of this order to the Court concerned, shall be released on



bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-divisional Judicial Magistrate, Pupri, Sitamarhi in connection with Nanpur P. S. Case No.175 of 2018, subject to conditions as laid down under Section 438(2) of the Cr.P.C.

(Hemant Kumar Srivastava, J)

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