

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19820 of 2021

Arising Out of PS. Case No.-71 Year-2003 Thana- AURAI District- Muzaffarpur

Manoj Kumar Rai @ Manoj Kumar, Son of Late Tarkeshwar Prasad Rai,
Resident of Village - Bharthua, P.S.- Aurai, District - Muzaffarpur (at present
Resident of M-39, Housing Board, Kherajpur, P.S.- Darbhanga Sadar, District
- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gyanendra Kr. Singh, APP Ms.Punam Shrivastava, Advocate
For the Opposite Party/s	:	Mr. Manish Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

4 14-12-2021 The applicant/accused in Crime No. 71 of 2003 registered with Aurai (Muzaffarpur) Police Station for the offences punishable under Sections 341, 323, 379, 307 and 504 r/w Section 34 of the Indian Penal Code as well as Section 27 of the Arms Act at the instance of first informant Jahanvi Shekhar Bhatt by this application is seeking his release on bail during pendency of the trial.

Heard the learned counsel appearing for the applicant/accused. He submits that there is no iota of the evidence against the applicant. He has surrendered before the court when his application for anticipatory bail filed in the year 2020 came to be rejected on 15.12.2020.



The learned counsel for the first informant opposed the application by contending that the applicant was absconding and proceedings under Section 82-83 of the Cr.P.C. were initiated against him for declaring him as a proclaimed offender.

On behalf of the State, affidavit of one Baidya Nath Singh – Dy.S.P., Muzaffarpur is filed and it is appropriate to quote relevant paragraph 9 of that affidavit and it reads thus:-

“That is is necessary to mention here that the investigating Officer during the course of investigation had arrested Anil Kumar Rai within one year in 2004 on 15.03.2004 and release on bail 24.05.2004, however the petitioner had surrendered before the Learned Court ADJ-14, Muzaffarpur in Sessions Trial no. 59 of 2019 after lapse of 18 years, as per directions of this Hon’ble Court passed in Criminal Miscellaneous no. 28913/(arising out of ABP no. 1665/2020). This Hon’ble High Court had rejected the prayer of the petitioner on 15.12.2020 with some observation. This Hon’ble Court had mentioned in his rejection order dated 15.12.2020 that First Information Report was lodged in 2003 and Anticipatory Bail Petition has been moved by the petitioner after considerable delay in the year 2020.”

Bail can be granted only when the court is assured of availability of the accused for trial. This is a case wherein the accused was absconding, proceedings for declaring him as proclaimed offender were initiated. Police could not trace him



out despite efforts. Ultimately after rejection of his application for anticipatory bail filed in the year 2020, the applicant had surrendered after a lapse of about 17 years from the incident. Hence this Court is not assured of the fact that the applicant would be available for trail, if he is released on bail. Therefore, no case for grant of bail to the applicant/accused is made out. Application is rejected.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the appellant/accused.

(A. M. Badar, J)

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