

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27351 of 2022

Arising Out of PS. Case No.-163 Year-2020 Thana- BARAULI District- Gopalganj

Suraj Kumar @ Suraj Bhagat Son of Prabhunath Prasad Resident of Village -
Rupan Chhap, P.s.- Barauli, Distt.- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Shyam Kumar Singh, APP

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 29-06-2022

Heard both sides.

The petitioner apprehends his arrest in connection with Barauli P.S. Case No.163 of 2020 for the offence registered under Sections 341, 323, 328, 376 and 506/34 of the Indian Penal Code.

This is the second bail application having anticipatory bail.

Taking anticipatory bail, learned counsel for the petitioner submits that the first bail application was rejected by this Court, taking into consideration the statement of the prosecutrix recorded under Section 164 Cr.P.C. He submits that the trial as against the other co-accused was continuing and the prosecutrix has given a statement in the Court on 4th January,



2022, which could not be brought to the knowledge of the Court on the said date as the arguments were being advanced online. Learned counsel further submits that in the statement made, the Court of Additional Sessions Judge, Gopalganj, the prosecutrix was declared hostile and she has very specifically stated that the statement made by her was under duress of her parents. Learned counsel submits that the prosecutrix has ultimately married the main accused Bittu Bin and so far as the petitioner is concerned, he was only one of the persons, who was accompanying Bittu Bin. There is no specific allegation with regard to the petitioner committing rape on the prosecutrix. Learned counsel submits that the petitioner is a young boy of 18 years of age and his entire life would be spoiled if he is put in jail. In the changed circumstances, he should be granted anticipatory bail.

I have considered the submissions.

In normal course, second anticipatory bail is not accepted as it virtually amounts to reviewing the earlier order. However, this Court finds that there are changed circumstances which were not in notice of the Court at the time of rejecting the first bail application. The statement of the prosecutrix in the trial Court, reflects that the petitioner has wrongly made as an accused.



Leaving it for the trial court to take decision in this regard suffice it to state that the fact regarding the prosecutrix has become hostile in the same case registered on the basis of same F.I.R., I am inclined to allow the second bail application of the petitioner, subject to conditions as under:-

1. The above named petitioner shall furnish personal bond with his recent self-attested photograph and surety of the like amount on the following conditions at the satisfaction of the investigating officer.

2. The petitioner shall cooperate with the investigation and make himself available for interrogation whenever required;

3. The petitioner shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

4. The petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

5. The petitioner shall not leave the territory of Gopalganj (District name) without prior permission of the court, till trial is over;

6. The petitioner shall maintain law and order;



7. The petitioner shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case;

8. The petitioner shall surrender his passport, if any, before the investigating officer within a week and, if he does not possess any passport, he shall file an affidavit to that effect before the investigating officer;

9. The petitioner shall regularly remain present during the trial and cooperate with the Hon'ble court to complete the trial for the above offences.

(Sanjeev Prakash Sharma, J)

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