

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64378 of 2021

Arising Out of PS. Case No.-120 Year-2015 Thana- BIRPUR District- Supaul

Upendra Mahto @ Upendra Mehta S/o Chamru Mahto @ Chamak Mehta
Resident of Village- Labhgaon, P.S.- Khagaria, District- Kahgaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kamal Kishore Singh, Advocate

For the Opposite Party/s : Mr. Aslam Ansari, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 05-07-2022 This application has been listed under the heading
“For Orders”.

Registry has pointed out several defects in the present
application.

Mr. Kamal Kishore Singh, learned counsel for the
petitioner submitted that the defects are mainly because only e-
filing of the applications are permitted by the Court. He
submitted that the defects can be removed only after filing of
hard copy is permitted. He undertook that even if the application
is heard and disposed of on merit, in due course of time, when
the Court would permit filing of hard copy, the defects pointed
out by the registry would be removed.

In view of the submissions made by the learned
counsel for the petitioner, with consent of the parties, the
application has been taken up for hearing on merit.



In the present application preferred under Section 438 of the Code of Criminal Procedure, the petitioner has prayed for grant of pre-arrest bail in connection with Birpur P.S. Case No.120 of 2015 registered for the offences punishable under Sections 420, 465, 466, 468 and 471 of the Indian Penal Code.

Learned counsel for the petitioner submitted that the petitioner was appointed as Anusewak (Halwaha) in the Department of Agriculture. Allegation against him is that he was appointed on the basis of a forged letter. He submitted that altogether 19 persons were appointed in the District of Supaul on the post of Anusewak against whom the instant FIR was registered. Out of them accused persons, namely, Mahakant Poddar, Durga Prasad Yadav, Arjun Sharma, Phulhar Prasad Yadav, Alim-Uddin Khan and Harishchandra Sharma were granted pre-arrest bail by this Court vide order dated 16.11.2016 passed in Cr.Misc. No.39358 of 2016. He further contended that other accused persons have been granted bail by the court below itself.

On the other hand, Mr. Aslam Ansari, learned Additional Public Prosecutor for the State submitted that the petitioner has been declared absconder. The case was registered on 01.07.2015. Non-bailable warrant was issued against the



petitioner on 21.02.2017. Since he evaded arrest, processes under Sections 82 and 83 were issued against him. In that view of the matter, his case is not identically situated to that of other co-accused persons, who have already been granted pre-arrest bail.

Having heard the parties and perused the material on record, considering that the petitioner was declared an absconder, I am not inclined to grant him pre-arrest bail even though some other accused persons have already been granted pre-arrest bail by this Court.

Accordingly, the prayer for pre-arrest bail is rejected.

In case the petitioner surrenders within four weeks from today and seeks bail, the court below shall consider his application for bail without being prejudiced in any manner by the order of this Court and dispose of the bail application after taking into consideration the fact that most of the accused persons have been granted bail/pre-arrest bail in the present case.

(Ashwani Kumar Singh, J)

kanchan/-

U		T	
---	--	---	--

