

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65689 of 2022

Arising Out of PS. Case No.-395 Year-2022 Thana- MOHANIYA District- Kaimur (Bhabua)

ANKIT KUMAR SON OF MANOJ KUMAR R/O VILLAGE-
KARMAHARI, P.S.- JAMANIA, DISTRICT- GAJIPUR (U.P.).

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Surendra Kumar Mishra

For the Opposite Party/s : Mr.Pranav Kumar

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 02-02-2023 Heard both sides.

From perusal of the impugned order, it appears that the petitioner is on police bail.

It is settled principle of law that once the petitioner has been granted bail either by the police or by the court, the petition under Section 438 Cr.P.C. on behalf of the petitioner is not maintainable.

In that view of the matter, the present application is disposed of with a direction to the petitioner to surrender before the learned Court below within six weeks from today and seek regular bail and the learned lower Court would consider the same without being prejudiced by this order in view of the ratio laid down in the case of *Mahendra Prasad Singh Vs. The State of Bihar*, reported in *2004 (3) PLJR 491*. In this decision, it was



held that once the bail had been granted and bail bond executed, at a later stage, if the offence is treated as non-bailable, the applicant cannot file his application for grant of anticipatory bail. The only remedy available to him is to surrender before the concerned court. The court concerned will grant him bail without taking into custody, considering his conduct while on police bail and also that he has not misused the privilege of bail.

With the aforesaid observation and direction, this application stands disposed of.

(Anjani Kumar Sharan, J)

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