

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44682 of 2024

Arising Out of PS. Case No.-123 Year-2023 Thana- PAHARKATTA District- Kishanganj

KADIR @ MD. KADIR S/O MAMREDDIN R/O VILLAGE-
KHAJOORBARI, KHAJOORBARI, P.S- PAHARKATTA, DISTT.-
KISHANGANJ.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Radha Mohan Singh
For the Opposite Party/s : Mr. Ravindra Kumar

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 219-08-2024
1. Heard the learned counsel for the petitioner and the learned APP for the State.

2. The petitioner apprehends his arrest in connection with Paharkatta P.S. Case No.123/2023 registered for the offences punishable under Sections 365 and 34 of the Indian Penal Code.

3. The learned APP at the outset submits that the offences for which the instant F.I.R. has been instituted against the petitioner carries a punishment of 7 years and less. The said submission of the learned APP is not disputed by the learned counsel appearing on behalf of the petitioner. The learned counsel for the petitioner further submits that the investigation in the case against the petitioner is still continuing but the



petitioner has not been given the benefit of Section 41(A) Cr.P.C., on which, the learned APP submits that the case be disposed of in terms of the order dated 13.02.2024 in Cr. Misc. No.3536/2024 (Naushad Ansari vs. State of Bihar).

4. In view of the submission made by the learned APP the anticipatory bail application is disposed of in terms of the order dated 13.02.2024 in Cr. Misc. No.3536/2024 (Naushad Ansari vs. State of Bihar).

5. The petitioner would be at liberty to file a representation within a period of three weeks from today before the concerned Superintendent of Police of the district and the Investigating Officer of the case with a web copy of the order dated 13.02.2024 in Cr. Misc. No.3536/2024 (Naushad Ansari vs. State of Bihar) and the Superintendent of Police shall ensure that Investigating Officer of the case strictly adhere to the direction contained in the said order.

6. The learned counsel for the petitioner at this stage submits that it appears that the learned Additional Sessions Judge-1, Kishanganj acts mechanically. It is further submitted that this Court by its order dated 13.02.2024 in Cr. Misc. No.3536/2024 (Naushad Ansari vs. State of Bihar) has clearly directed that how an accused is to be treated against whom an



F.I.R. is instituted carrying punishment of 7 years and less. Further, the order also records the consequences of the breach of the order dated 13.02.2024 passed in Cr. Misc. No.3536/2024 (Naushad Ansari vs. State of Bihar).

7. The Court completely concurs with the submissions of the learned counsel appearing on behalf of the petitioner and at the same time the court completely fails to appreciate the conduct of the Superintendent of Police, Kishanganj and the I.O. of the case that as to why benefit of Section 41(A) of the Cr.P.C. was not given to the petitioner.

8. The Court for the present restrains itself from passing any adverse order against Mr. Kumar Gunjan, the learned Additional Sessions Judge-1, Kishanganj and the S.P., Kishanganj and the I.O. of the case, but then directs them to download the order dated 13.02.2024 passed in Cr. Misc. No.3536/2024 (Naushad Ansari vs. State of Bihar) for their perusal. The Court expects that next time, such mechanical order would not be passed and the S.P., Kishanganj and the I.O. of the case shall ensure that the order dated 13.02.2024 passed in Cr. Misc. No.3536/2024 (Naushad Ansari vs. State of Bihar) is not breached with impunity, failing which, consequences would follow against the erring officials.



9. Let a copy of this order be sent to the learned Sessions Judge, Kishanganj for its onward communication to Mr. Kumar Gunjan, learned Additional Sessions Judge-1, Kishanganj, S.P., Kishanganj and the I.O of the case for their perusal and necessary action.

(Satyavrat Verma, J)

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