

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42891 of 2024

Arising Out of PS. Case No.-445 Year-2023 Thana- GAURICHAK District- Patna

Nitish Kumar Son Of Late Manoranjan Singh Village- Kali Mandap, Murpa,
P.S.- Mandu (KUJU), Distt.- Ramgarh (JHARKHAND) At Present R/O-
Hospital Colony Rajrappa, P.S.- Rajrappa, Distt.- Ramgarh(Jharkhand)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sweety Kumari D/O- Manoj Kumar Village- Naya Tola, Gaurichak, P.S.-
Gaurichak, Distt.- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Ravi Prakash Dwivedi
For the Opposite Party/s :	Mr.Raj Ballabh Singh, APP
	Mr. Gopal Govind Mishra, Adv

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 27-08-2024 1. Heard learned counsel for the petitioner, learned
A.P.P. for the State and learned counsel appearing on behalf of the
OP No. 2.

2. The learned counsel for the petitioner submits that
petitioner seeks anticipatory bail in connection with Gaurichak
P.S. Case No. 445 of 2023 for the offences punishable under
Sections 341, 323, 498A, 504, 506 and 34 of the Indian Penal
Code and Sections 3 and 4 of Dowry Act.

3. The learned APP submits that the offence for which
the instant FIR has been instituted, carries punishment of seven
years and less, the said submission of the learned APP is not
disputed by learned counsel appearing on behalf of the petitioner



and OP No. 2.

4. The learned counsel for the petitioner next submits that investigation in the case against the petitioner is still continuing but then the petitioner has not been granted the benefit of Section 41(A) of the Cr.P.C, on which the learned APP submits that the case be disposed of in terms of the order dated 13-2-2024 passed in Criminal Miscellaneous No. 3536 of 2024 (Naushad Ansari vs. the State of Bihar).

5. In view of the submission made by the learned APP, the anticipatory bail application is disposed of in terms of the order dated 13-2-2024 passed in Criminal Miscellaneous No. 3536 of 2024 (Naushad Ansari vs. the State of Bihar).

6. The petitioner would be at liberty to file a representation before the concerned Superintendent of Police and the Investigating Officer of the case, within a period of three weeks from today, with a web copy of the order dated 13-2-2024 in Criminal Miscellaneous No. 3536 of 2024 (Naushad Ansari vs. the state of Bihar); and the concerned Superintendent of Police shall ensure that the Investigating Officer of the case strictly adheres to the directions contained in the order dated 13-2-2024 in Criminal Miscellaneous No. 3536 of 2024 (Naushad Ansari vs. the State of Bihar).

7. At this stage, the learned counsel appearing on behalf



of the petitioner submits that it appears that learned Additional Sessions Judge-III, Patna City acts mechanically, it is further submitted that this Court by its order dated 13.02.2024 in Criminal Miscellaneous No. 3536 of 2024 (Naushad Ansari Vs. The State of Bihar) has clearly directed that as to how an accused is to be treated against whom an FIR is instituted carrying punishment of seven years and less and the order 13.02.2024 in Criminal Miscellaneous No. 3536 of 2024 (Naushad Ansari Vs. The State of Bihar) also records the consequences of its breach. It is next submitted that the learned Additional Sessions Judge-III, Patna City, in complete breach of the order dated 13.02.2024 in Cr. Misc. No.3536/2024 (Naushad Ansari vs. State of Bihar), has passed the order even without verifying that as to whether the petitioner was given the benefit of Section 41(A) of the Cr.P.C or not.

8. The Court completely concurs with the submission of the learned counsel appearing on behalf of the petitioner but then fails to appreciate the conduct of the Superintendent of Police, Central Patna 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 in compliance of the order dated 13.02.2024 in Cr. Misc. No.3536/2024 (Naushad Ansari vs. State of Bihar).

9. The Court, for the present, restrains itself from passing any adverse order against the learned Additional Sessions



Judge-III, Patna City, the S.P., Central Patna and the I.O. of the case, but then directs them to download the order dated 13.02.2024 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 by the learned Additional Sessions Judge-III, Patna City; and the S.P., Central Patna and the I.O. of the case shall remain careful and shall ensure that the order dated 13.02.2024 in Cr. Misc. No. 3536/2024 (Naushad Ansari vs. State of Bihar) is not breached with impunity, failing which, the Court would be constrained to initiate departmental/contempt proceeding against the erring judicial officer and the police officials.

10. Let a copy of this order be sent to the learned Sessions Judge, Patna and Senior Superintendent of Police, Patna for its onward communication to the learned Additional Sessions Judge-III, Patna City, the Superintendent of Police, Central Patna and the Investigating Officer of the case for their perusal and necessary action.

(Satyavrat Verma, J)

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