

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45219 of 2024

Arising Out of PS. Case No.-153 Year-2024 Thana- BARUN District- Aurangabad

ANSHU PATWA S/O- LATE KRISHNA PATWA @ LATE KRISHNA
PRASAD R/O VILLAGE- DHAMANI GOLA, P.S.- BARUN, DISTT.-
AURANGABAD

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Mukul Kumari, Advocate

For the Opposite Party/s : Ms. Anita Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 20-08-2024 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in connection
with Barun P.S. Case No. 153 of 2024, G.R. No. 905 of 2024
dated 01.04.2024 registered for the offences punishable under
Sections 379 and 411/34 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that
petitioner has antecedent of four cases.

4. Learned A.P.P., at the outset, submits that the
offences for which the instant FIR has been instituted against
the petitioner carry punishment of less than seven years.

5. The said submission of the learned A.P.P. is not
disputed by the learned counsel appearing on behalf of the
petitioner.



6. Learned counsel for the petitioner further submits that investigation in the case against the petitioner is still going on but then petitioner has not been given the benefit of Section 41(a) of the Cr.P.C., on which learned A.P.P. submits that the case be disposed of in terms of the order dated 13.02.2024 passed in Cr. Misc. No. 3536 of 2024 (Naushad Ansari Vs. The State of Bihar).

7. In view of the submissions made by the learned A.P.P., the anticipatory bail application is disposed of in terms of the order dated 13.02.2024 passed in Cr. Misc. No. 3536 of 2024.

8. 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 13.02.2024 passed in Cr. Misc. No. 3536 of 2024 and the concerned Superintendent of Police shall ensure that the Investigating Officer of the case strictly adheres to the direction contained in the said order dated 13.02.2024 passed in Cr. Misc. No. 3536 of 2024.

9. Learned counsel for the petitioner, at this stage, submits that the learned Additional District and Sessions Judge-



II, Aurangabad acts mechanically. It is further submitted that this Court by order dated 13.02.2024 passed in Cr. Misc. No. 3536 of 2024 has clearly directed as to how an accused is to be treated against whom an F.I.R. is instituted carrying punishment of seven years and less and the order dated 13.02.2024 further records the consequences of its breach.

10. The Court completely concurs with the submissions of the learned counsel appearing on behalf of the petitioner but then fails to appreciate the conduct of the Superintendent of Police, Aurangabad and the investigating officer of the case as to why benefit of Section 41(a) of the Cr.P.C. was not given to the petitioner.

11. The Court, for the present, restrains itself from passing any adverse order against the learned Additional District and Sessions Judge-II, Aurangabad, the Superintendent of Police, Aurangabad and the investigating officer of the case, but then directs them to download the order dated 13.02.2024 passed in Cr. Misc. No. 3536 of 2024 (Naushad Ansari Vs. The State of Bihar) for their perusal.

12. The Court expects that next time, such mechanical order would not be passed by the learned Additional District and Sessions Judge-II, Aurangabad and the Superintendent of



Police, Aurangabad and the investigating officer of the case shall remain careful and shall ensure that the order dated 13.02.2024 passed in Cr. Misc. No. 3536 of 2024 (Naushad Ansari Vs. The State of Bihar) is not breached with impunity, failing which, the Court would be constrained to initiate departmental/contempt proceeding against the erring officials.

13. Let a copy of this order be sent to the learned District Judge, Aurangabad for its onward communication to the learned Additional District and Sessions Judge-II, Aurangabad, the Superintendent of Police, Aurangabd and the investigating officer of the case for their perusal and necessary action.

(Satyavrat Verma, J)

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