

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49421 of 2024

Arising Out of PS. Case No.-10 Year-2021 Thana- KUCHAIKOTE District- Gopalganj

Bharat Kumar S/o- Sri Janardhan Bhagat Village and PS- kuchaikote district-
Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sudhanshu Kumar Mishra Son of Sri Birendra Mishra Resident of Village Bindwaliya PS- Kuchaikote Dist- Gopalganj

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Upendra Yadav
For the Opposite Party/s : Mr.Abhay Kumar
Mr. Pankaj Kumar Dubey

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 26-10-2024 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 Kuchaikote P.S. Case No. 10 of 2021 for the offences punishable under Sections 406 and 420 of the Indian Penal Code and Section 138 of the N.I. Act.

3. The learned APP, at the outset, submits that the offences 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 for the petitioner



submits that the instant FIR has been instituted only to coerce the petitioner into submission when it is settled principle of law that an FIR is not maintainable with respect to an offence committed under Section 138 of the N.I. Act and for the said proposition, relies on the judgment in the case of *Hemant Kumar Das & Anr. vs. The State of Bihar* reported in *2018 (4) PLJR 725*.

(Satyavrat Verma, J)

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