

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84148 of 2023

Arising Out of PS. Case No.-17 Year-1993 Thana- BAISI District- Purnia

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Bhadai Vishwas S/O Late Ranglal Vishwas R/O Village- Dargahi Ganj Jaswa,
P.S- Bayasi, Distt.- Purnea.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The S.P. Vigilance, Patna Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Adv.
For the Vigilance : Mrs. Archana Palkar Khopde, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 05-07-2024 Heard learned counsels for the parties.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 420/120(B) of the Indian Penal Code and Sections 7 & 8 of Prevention of Corruption Act.

3. From perusal of the record, it appears that earlier the petitioner was granted bail in the matter on 25.02.1993 and since then the petitioner has been very lethargic in attending the Court process and has not cooperated with the authorities in any way. The matter was pending for want of sanction against one of the accused, who died while the matter was pending. Therefore, in 2015, this Court took cognizance of the matter and issued notice to the petitioner, but he has not appeared in the Court.



Finally, a non bailable warrant has been issued on 26.05.2023 against the petitioner. Thereafter, the petitioner has renewed his prayer and moved this application.

4. 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.

5. 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.



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

(Anjani Kumar Sharan, J)

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