

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.19874 of 2020**

Arising Out of PS. Case No.-569 Year-2019 Thana- CHAPRA TOWN District- Saran

Rahul Kumar @ Rahul Raj son of Sri Chandeswar Rai, R/o village-
Dahiyaman Dargah, P.S. Chapra Town, District- Saran... .. Petitioner
Versus

The State of Bihar Opposite Party

Appearance :

For the Petitioner/s : Mr. Ansul, Advocate

For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 17-07-2020 Learned counsel for the petitioner undertakes to remove the defects, if any, within three weeks after start of normal functioning of the Court.

At the outset, Mr. Ansul, learned Advocate while mentioning this matter submits that he has instruction to bring it to the notice of this Court that during the pendency of this application, the petitioner has been arrested.

Once he stood arrested so far as this application is concerned, it has become infructuous but the predicament of the petitioner is that his attempt to file a regular bail application could not succeed because of the pendency of this anticipatory bail application.

At the Bar, this Court has been informed that in fact the Court below is not entertaining a regular bail application of an accused who has earlier filed an anticipatory bail application

and the same is pending before this Court. The accused are told to produce an order showing withdrawal of anticipatory bail application.

Mr. Akhileshwar Dayal, learned APP for the State is present and in course of discussion he admits that once an accused is arrested, all proceeding in form of an anticipatory bail stood terminated. In fact, in this regard there is already an order of the learned Coordinate Bench of this Court in Cri. Misc. No. 21360 of 2015. In it's order dated 26.05.2015 the learned Coordinate Bench has recorded as under:

“ Learned counsel for the petitioners states that petitioner no.1-Md. Matin has been arrested during pendency of this application and as such he seeks leave to withdraw this application in so far as petitioner no.1 is concerned. He states that the lower court is not ready to hear the regular bail application of this petitioner on the ground that anticipatory bail application is pending in the High Court.

I have yet to see a more absurd prayer. Upon arrest of a person all proceedings in relation to anticipatory bail becomes infructuous and no Magistrate could ever make such an observation.

In any view of the matter, in view of the prayer made, the application on behalf of petitioner no.1-Md. Matin is deemed to be infructuous and disposed of as such.”

Learned counsel for the petitioner has submitted that despite there being the aforesaid order of the learned Coordinate

Bench of this Court, the same is not being followed by the court below.

This Court is of the considered view that if any of the Judicial officer in the court below is not following the said order and observations of the learned Coordinate Bench, they may be held responsible for committing contempt of Court and in a specific case brought to the notice of this Court it may be taken very seriously.

During this pandemic period for the aforesaid reason alone if any person lying in jail is suffering, it is not only violation of the constitutional and human rights of an accused but is also a matter of judicial indiscipline.

This Court, therefore, directs learned Registrar General of this Court to circulate this order by sending it to all the learned District and Sessions Judges who in turn will be responsible to bring it to the notice of all the judicial officer of their respective court(s).

This application is permitted to be withdrawn as prayed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.