

3. We heard Mr. Smarhar Singh, the learned counsel appearing for the petitioner and Ms. Rebecca Mishra, the learned counsel appearing for the State of Bihar.

4. It appears from the materials on record that after the registration of FIR, investigation was undertaken and at the end of the investigation, the Investigating Agency thought fit to file a Closure Report in so far as the involvement of the present petitioner in the alleged crime is concerned.

5. Pursuant to the filing of the Closure Report, notice was issued by the Court concerned to the defacto-complainant. After hearing the defacto-complainant and the State, the Closure Report was ultimately accepted. The order passed by the Court concerned accepting the closure report attains finality.

6. In such circumstances, referred to above, the petitioner was not put to trial. Charge-sheet came to be filed against other co-accused.

7. It appears that the original defacto-complainant i.e. the victim entered the witness box for her oral testimony and in the course of her oral testimony, she reiterated the very same allegations levelled by her against the petitioner in the FIR. Thereafter, she preferred an application under Section 319 of the Code of Criminal Procedure, 1973 to add the present petitioner as an accused in the trial.

8. The petitioner - herein, being dissatisfied with the order passed by the Trial Court, adding him as an accused in exercise of powers under Section 319 of the Code, has challenged the order before the High Court of Patna.

9. However, the petitioner apprehending arrest at the hands of the Police prayed for anticipatory bail which came to be declined.

10. This prosecution is of the 2018. This matter should not have travelled to the Supreme Court. It was expected of the High Court to exercise its discretion in accordance with law, having regard to the peculiar facts and circumstances of this case.

11. We need not say anything further as the original order passed by the Trial Court adding the petitioner as an accused has been

challenged before the High Court and the High Court is in-seisin of the original order.

12. In such circumstances, referred to above, we order that in the event of arrest of the petitioner by the Police in connection with the offence referred to above, he shall be released on bail, subject to terms and conditions that the Investigating Officer may deem fit to impose.

13. Once the petitioner is released by the IO, he shall thereafter appear before the Trial Court and furnish fresh bail.

14. Whether the petitioner should face the trial or not will be subject to the final outcome of the petition pending in the High Court.

15. With the aforesaid, the Special Leave Petition stands disposed of.

16. Pending applications, if any, also stand disposed of.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)