

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10224 of 2015

Arising Out of PS.Case No. -72 Year- 2014 Thana -PARSAUNI District- SITAMARHI

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1. Ranju Devi, Wife of Ram Babu Patel
2. Bindeshwar Rai, Son of Late Mahadeo Rai,
3. Sonu @ Abhimanyu, Son of Ram Babu Patel
4. Ram Babu Patel, Son of Bindeshwar Rai, All resident of village-
Andahara, P.S.- Parsauni, District- Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Devendra Kumar

For the Opposite Party/s : Mr. Ajay Kr. 1(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 08-05-2015 Heard learned counsels for the petitioners and the State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 341, 323, 307 and 504/34 of the Indian Penal Code subsequently Section 302 IPC was also added.

It is alleged that five FIR named accused persons assaulted the brother of the informant with lathi and danda and when the informant went to rescue then he was also assaulted.

It is submitted by learned counsel for the petitioners that considering the omnibus and general accusation, petitioner nos. 1, 3 and 4 were granted bail by learned Sessions Judge, Sitamarhi vide order dated 16.06.2014 passed in ABP No. 832 of 2014,



subsequently after death of the victim/the brother of the informant on 04.06.2014, the I.O., filed requisition for adding Section 302 IPC and thereafter Section 302 IPC was added, consequently, learned Sessions Judge cancelled the bail bonds of petitioner nos. 1, 3 and 4 vide order dated 03.09.2014 passed in Cr. Misc. No. 17 of 2014 which is under challenge before this Court in Cr. Misc. No. 40422 of 2014 which is still pending. The prayer for anticipatory bail has been rejected by learned Sessions Judge, Sitamarhi vide order dated 11.02.2015 on the ground that since they executed the bail bonds in pursuance to the grant of earlier anticipatory bail.

This Court finds no illegality with the impugned order with respect to petitioner nos. 1, 3 and 4 as in pursuance to the grant of anticipatory bail vide ABP No.832 of 2014 they executed bail bonds and were released on surrender, hence they were in the deemed custody of the court, hence their anticipatory bail application is not maintainable. However, in such circumstances when once anticipatory bail is granted, subsequent prayer for regular bail can only be rejected if the petitioners have misused the prayer for anticipatory bail.

So far as petitioner no. 2 is concerned, he was not named in the FIR, his name subsequently sprang up during

investigation as one of the persons who also made assault.

It is submitted by learned counsel for the petitioners that there is specific accusation against five FIR named accused persons to have made assault and petitioner no.2 is not named in the FIR. A statement has been made in para 3 of the petition that the petitioner no.2 has no criminal antecedent

Considering the aforesaid facts, let the above named petitioner no.2 be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned C.J.M., Sitamarhi in connection with Parsauni P.S. Case No. 72 of 2014, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Dinesh Kumar Singh, J)

Amrendra/-

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