

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9150 of 2015

Arising Out of PS.Case No. -409 Year- 2014 Thana -SAKRA District- MUZAFFARPUR

- =====
1. Ramchandra Poddar S/o Late Ganpat Poddar Resident of Village Nemopur Murliachak, P.S. Sakra, District Muzaffarpur.
 2. Shikha Devi @ Seran Devi W/o Lalal Kumar Poddar, Resident of Village Nemopur Murliachak, P.S. Sakra, District Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vinay Mistry, Advocate.

For the Opposite Party/s : Mr. Khurshid Anwar(App)

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI
ORAL ORDER

4 09-07-2015

This is an application, made under Section 438 of the Code of Criminal Procedure, seeking pre-arrest bail by the petitioners, namely, Ramchandra Poddar and Shikha Devi @ Seran Devi, in connection with Sakra P.S. Case No. 409 of 2014 under Section 302/34 of the Indian Penal Code.

Perused the above application and materials on record including a copy of the order, dated 13.01.2015, passed, in A.B.P. No. 72 of 2015, by the learned Sessions Judge, Muzaffarpur, rejecting the said application for pre-arrest bail.

Heard Mr. Vinay Mistry, learned Counsel for the petitioners, and Mr. Khurshid Anwar, learned Additional Public Prosecutor, appearing for the State.

The High Court, while exercising its powers under

Section 438 Cr.P.C., stands on the same footing as does a Sessions Judge inasmuch as a High Court and Sessions Judge have coordinate jurisdiction, while exercising power under Section 438 Cr.P.C.

Considering the nature of incriminating materials available against the petitioners, this Court does not find that the petitioners have been able to make out any case calling for giving them benefit of pre-arrest bail.

It is, however, made clear that if the petitioners appear in the Court of competent jurisdiction and if, upon her appearance in the learned Court below, the petitioner applies for regular bail, the learned Court below shall consider and dispose of the same in accordance with law, without any unreasonable delay, bearing in mind that the petitioners claim to be 80 and 70 years old respectively and may therefore verify if the same is true, benefit of proviso to Section 437(2) Cr.P.C. be given.

With the above observations and directions, this application shall stand disposed of.

Mkr./-

(I. A. Ansari, J)

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