

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30122 of 2014

Arising Out of PS.Case No. -18 Year- 2014 Thana -PAHARPUR District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Rameshwar Rai &
 2. Anooj Rai.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar No.Iii

For the Opposite Party/s : Mr. D.P.Tiwary(App)

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

2 14-01-2015

Heard.

Let the petitioners surrender before Judicial Magistrate,
Is Class, Motihari, East Champaran in Paharpur P.S.Case No.18 of
2014 and pray for regular bail.

This Court wants to impress upon the learned Magistrate
who shall hear the bail petition of the petitioners that the prayer
for regular bail has to be considered only in the light of the
specific allegations appearing against an accused. Section of
offence or its severity or seriousness can not be a consideration for
refusing the prayer for bail. There was no specific overt-act
alleged against the petitioners and two persons, namely, Rajan Rai
and Rahul Rai were alleged to have committed one overt-act or the
other and that too could be a matter to be enquired into after
production of the investigating records.

As regards the present petitioners, the Court had already noted their names having figured in the FIR, they do not really bear any personal allegation of committing any overt-act. There was a mob of 25-30 persons who had assembled to block the road due to an accident having taken place. In the opinion of the Court, if it could not be the fittest case for granting bail by a Magistrate, there could be none.

Let the Magistrate apply his discretionary power of granting bail to the petitioners in the light of the above observations as and when the petitioners surrender before him. The Magistrate shall not carry any prejudice towards the petitioners that they had moved the Courts up to this Court seeking bail under Section 438(2) Cr.P.C.

Petition stands disposed of with the above observations.

(Dharnidhar Jha, J)

B.Kr./-Kanth.

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