

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34326 of 2015

Arising Out of PS.Case No. -118 Year- 2014 Thana -SIKARPUR District-
WESTCHAMPARAN(BETTIAH)

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1. Rajbanshi Sharma @ Rajbanshi Thakur Son of late Baldeo Thakur
2. Kameshwar Sharma@Kameshwar Thakur Son of Rajbanshi Thakur
3. Pradeep Kumar@Pradeep Shrama Son of kameshwar Thakur All
residents of Village Harpur, P.s shikarpur, District Westn Champaran.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma

For the Opposite Party/s : Mr. J.N. Thakur (App)

For O.P. No. 2 : Mr. Prithvinath Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

2 25-08-2015 Heard learned counsels for the petitioners and the State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 447,323 and 341/34 of the Indian Penal Code though subsequently on conclusion of investigation, final form (chargesheet) was submitted under sections 307 , 504/34 and 302 IPC, accordingly order of cognizance was also passed.

The accusation is of assault in the background of land dispute when the father of the informant succumbed to the injury after two months of the incident.

It is submitted by the learned counsel for the petitioners

that the petitioners were granted bail since the case was initially registered under bailable provisions but subsequently on submission of final form and taking of cognizance under section 302 IPC, initially summons were issued and thereafter warrant of arrest was also issued.

Keeping in view the fact that the petitioners were earlier granted bail and executed bail bonds and thereby they were in the deemed custody of the court, hence, the present application for anticipatory bail is not maintainable. In view of this court, the learned CJM ought not to have issued warrant of arrest without cancelling the bail bonds.

In the circumstances, the present application is disposed of with a liberty to the petitioners to surrender and pray for regular bail within six weeks from today in connection with Shikarpur P.S. Case No. 118 of 2014 pending in the court of learned J.M. Ist Class, West Champaran.

Needless to say that in such situation, bail can only be denied in case of misuse of the earlier bail.

(Dinesh Kumar Singh, J)

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