

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40371 of 2014

Arising Out of PS.Case No. -1827 Year- 2013 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

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1, Md. Shabbir @ Md. Sabir, S/o. late Fanul Haque,
2. Firoza Khatoon, S/o. Md. Shabbir,
Both resident of village- Harpur Ganesh, P.S. Kanti, District-
Muzaffarpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Diwakar Prasad Karn, Advocate.

For the Opposite Party/s : Mrs. Nirmala Kumari(APP)

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

2 10-04-2015 This is an application, made under Section 438 of the

Code of Criminal Procedure, seeking pre-arrest bail by the
petitioner, namely, Md. Shabbir @ Md. Sabir and Firoza Khatoon,
in connection with Complaint Case No. 1827 of 2013, Trial No.
4113 of 2014 under Section 420 of the Penal Code.

Perused the above application and materials on record
including a copy of the order, dated 20.08.2014, passed, in A.B.P.
No. 1438 of 2014, by the learned Sessions Judge, Muzaffarpur,
rejecting the said application for pre-arrest bail.

Heard Mr. Diwakar Prasad Karn, learned counsel for the
petitioners, and Mrs. Nirmala Kumari, 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 fact that perusal of the materials on record reveals sufficient incriminating materials against the petitioners and also indicates that custodial interrogation is necessary in order to carry out effective investigation, this Court is of the view that in the facts and attending circumstances of the present case, the petitioners have not been able to make out any case calling for giving them benefit of pre-arrest bail.

It is contended by learned counsel for the petitioners that there is already warrant of arrest issued against the petitioners on the ground that they have absconded. In view of the above, the prayer for pre-arrest bail is rejected.

It is, however, submitted by Mr. Diwakar Prasad Karn, learned Counsel for the petitioner, that the petitioners are ready to surrender in the Court below.

Considering, therefore, the matter in its entirety and in the interest of justice, it is hereby directed that if the petitioners surrender in the learned Court below and, if, upon their appearance in the learned Court below, the petitioners apply for

regular bail, the learned Court below shall consider and dispose of the same in accordance with law without any unreasonable delay.

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

(I. A. Ansari, J.)

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