

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36345 of 2014

Arising Out of PS.Case No. -118 Year- 2007 Thana -HASANPUR District- SAMASTIPUR

1. Kasim @ Md. Kasim
2. Md. Ayub
Both S/o Shabdar Resident of Village Dudhpura, Police Station Hasanpur,
District Samastipur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhimanyu Sharma

For the Opposite Party/s : Mr. A.M.P.Mehta(App)

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 20-02-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under Section 304B, 201 & 498A of the Indian Penal Code and that the main accused, the husband, has already been acquitted in the trial on 19.2.2010 as also the co-accused Md. Talif and Md. Shafique have been granted only regular bail on 1.7.2013, whereafter another co-accused Husna Bano has been granted anticipatory bail on 10.1.2014, this Court is still not inclined to grant anticipatory bail to the petitioners only for the reason that the petitioners were happily absconding for a period of five years even after cognizance had been taken by the learned Magistrate differing with the final form way back in 2009, leading to their

being declared permanent absconders and trial also being segregated. The plea that this Court had subsequently granted anticipatory bail to co-accused Husnabano on 10.1.2014 in Cr. Misc. No. 37729 of 2013 can also not be a ground for granting privilege of anticipatory bail to the absconding petitioners because Husnabano was a lady and married nanad (sister-in-law) and if she was granted anticipatory bail in presence of the earlier order dated 1.7.2013 in Cr.Misc. No. 15358 of 2013 granting only regular bail to Md. Talif and Md. Shafique, the petitioners also being two male members, would be only entitled for grant of regular bail.

That being so, while the prayer for anticipatory bail of the petitioners, namely, Kasim @ Md. Kasim and Md. Ayub for the reasons indicated above is hereby rejected but, nothing said in this order shall come in the way of the petitioners on surrender for being given the same treatment as was given to the two other co-accused persons, namely, Md. Talif and Md. Shafique by the court below, if their case also stands on an identical footing.

With the aforesaid observations this application is disposed of.

(Mihir Kumar Jha, J)

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