

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40233 of 2014

Arising Out of Sadar PS.Case No. -7 of 1998 Thana -MUZAFFARPUR
SADAR District- MUZAFFARPUR

- =====
1. Surendra Pandey S/o late Ram Swaroop Pandey
 2. Birendra Pandey S/o late Ram Swaroop Pandey
- Both residents of village Govind Bahilwara, Pandey Tola, P.S. Saraiya,
Dist. Muzaffarpur

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Hari Kishore Thakur

For the Opposite Party/s : Mr. Rajendra Nath Jha(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, Surendra Pandey and Birendra Pandey, in connection with Sadar P.S.Case No. 7/98 under Section 406 of the Penal Code.

Perused the above application and materials on record including a copy of the order, dated 08.09.2014, passed, in A.B.P. No. 1549 of 2013, by the learned Sessions Judge, Muzaffarpur, rejecting the said application for pre-arrest bail.

Heard Mr. H.K.Thakur, learned counsel for the petitioners, and Mr. R.N.Jha, 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, now, submitted by learned counsel for the petitioners that there are already warrants of arrest issued against the petitioners on the ground that they have absconded. Learned counsel further submits that the petitioners are ready to surrender in the learned Court below.

Considering the matter in its entirety and in the interest of justice, it is made clear 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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