

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9019 of 2015

Arising Out of PS.Case No. -5 Year- 2012 Thana -THARTHARI District- NALANDA
(BIHARSHARIFF)

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1. Ram Bahadur Malakar Son of Nathun Malakar
2. Arun Malakar
3. Manoj Malakar
4. Chintu Malakar , Serial 2 to 4 sons of Rambahadur Malakar All residents
of village - Dastur - par, P.S. Tharthari, District - Nalanda

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nand Kishore Singh

For the Opposite Party/s : Mr. Amrendra Pd.(App)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

5 12-08-2015 Heard learned counsel for the petitioners and learned
counsel for the State.

The petitioners apprehend their arrest in connection
with Tharthari P.S. Case No. 5 of 2012 registered for the offences
punishable under sections 302 read with 34, 201 and 120-B of the
Indian Penal Code.

The prayer for grant of anticipatory bail of the
petitioners was earlier rejected by this Court vide order dated
12.11.2014 passed in Cr.Misc. No. 25425 of 2014. Thereafter, the
petitioners filed Special Leave to Appeal (Cr.) No. 505 of 2015
before the Supreme Court. In the Supreme Court, after arguing the
case for some time, the application was withdrawn on 27th

January, 2015.

It is contended that another accused, namely, Pintu Malakar having more or less identical allegation has already been granted anticipatory bail by a Bench of this Court vide order dated 20.11.2014 passed in Cr.Misc. No. 24506 of 2014, and having regard to the reasons assigned in the above said order, the petitioners have renewed their prayer for anticipatory bail.

In my view, the application is misconceived. Once an application for anticipatory bail has been considered and rejected by this Court on merit, it is not open for this Court to reconsider the matter in view of specific bar under the provisions of section 362 of the Code of Criminal Procedure. Furthermore, I find that though the prayer for anticipatory bail of the petitioners was rejected by this Court vide order dated 12.11.2014 passed in Cr.Misc. No. 25425 of 2014, the same was not brought to the notice of the Court while pressing the bail application of co-accused Pintu Malakar on 20.11.2014. A perusal of the record would make it evident that the same counsel was appearing in both the bail applications.

Regard being had to the facts and circumstances of the case, I find no merit in this application. Accordingly the application for anticipatory bail is rejected.

The petitioners may surrender and seek bail. It is made clear that in case the petitioners surrender and seek bail, the same shall be considered on its own merit without being prejudiced in any manner by the order passed by this Court.

(Ashwani Kumar Singh, J)

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