

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 28003 of 2015

Arising Out of PS.Case No. -153 Year- 2015 Thana -GOPALGANJ CITY District- GOPALGANJ

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1. Khodayaja Khatoon, W/o Osihar @ Dr. Wosi Ahmad @ Wasi Alam
 2. Osihar @ Dr. Wosi Ahmad @ Wasi Alam @ Md. Wosir, S/o Late Atim Mian
 3. Tarbez Alam @ Tabrej Alam, S/o Osihar @ Dr. Wosi Ahmad @ Wasi Alam @ Md. Wosir
 4. Jamaluddin, S/o Suleman, All Resident of Mohalla Madanpur, P.S. Barauli, District Gopalganj, At present R/o Ward No. 26, P.S. & District Gopalganj.
 5. Most. Marachho, W/o Late Haider Ali, Resident of Village Bagha, P.S. Thaway, District Gopalganj, at present R/o Ward No. 26, P.S. & District Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioners : Mr. Bijay Prakash Singh
For the Opposite Party : Mr. Prem Kr.Jha(App)

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

2 22-07-2015

Heard.

As appears from the rejection order passed by the Sessions Judge, Gopalganj, the prayer for anticipatory bail of the petitioners was dismissed only because he could not verify the allegations as also the defence of the petitioners from the case diary which had not been received by him in spite of being sent for.

The Court is struck in awe that the learned Sessions Judge was acting in an arbitrary manner by disobeying the directions of this Court contained in Meena Devi v. State of Bihar 1985 PLJR 586 in which a clear dictum was laid down that the practice which was prescribed by this Court to approach the Sessions Judges of the State

first under Section 438 Cr.P.C. was only with a view to ensuring that case diary and other papers connected with the case were perused by the Sessions Judge and the material facts were brought on record while passing the order either against or in favour of the accused so that, this Court shall have a clear glimpse of the facts and relevant materials under which the prayer could be made before this Court. It is unfortunate that the Sessions Judges of the State of Bihar are avoiding the judicial order of this Court and are following an executive instruction issued recently by the Court to dispose of bail petitions within 15 days in an arbitrary manner.

Let the Sessions Judge, Gopalganj rehear anticipatory bail petition no. 803 of 2015 which was dismissed by him on 25.05.2015 by restoring that petition to its original number and file and let him also be directed to abide by the dictum of this Court contained in the case of Meena Devi v. State of Bihar reported in 1985 PLJR 596. So long as the petition is not finally disposed of by the learned Sessions Judge, Gopalganj, the petitioners shall not be arrested by the police. In case, the petitioners do not appear before the court below, he shall be free to pass any order.

The petition stands disposed of with the above directions.

(Dharnidhar Jha, J)

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