

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30156 of 2016

Arising Out of PS.Case No. -43 Year- 2016 Thana -DARBHANGA SADAR District-
DARBHANGA

- =====
1. Harendra Singh, S/O- Prushotam Singh, resident of Village- Subhakar Chapra, Terenwa, P.S.- Siswan, District- Siwan.
 2. Santosh Kumar Singh, S/O- Ramlochan Singh, resident of Maksudpur, P.S.- Amnour, District- Chapra.
 3. Munna Singh, S/O- Surendra Singh, resident of Jamalpur, P.S.- Madhaura, District- Chapra.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Prabhakar Singh, Advocate

For the Opposite Party : Mr. Parmeshwar Mehta (APP)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 08-08-2016

Heard learned counsel for the petitioners as well

as learned Additional Public Prosecutor.

It is evident from the order impugned that at the time, when the learned Lower Court had entertained the prayer of the petitioners under Section 167(2)(a) of the Code of Criminal Procedure, no charge-sheet was available and so vide order dated 25.04.2016 directed to release the petitioners on bail on furnishing bail bond of Rs. 10,000/- each with two sureties of the like amount each. Subsequent thereof, it is evident from the record that bail bond was filed, simultaneously charge-sheet was also submitted and in the aforesaid background, vide order dated 26.04.2016, the

learned Lower Court refused to accept the bail bond. Later on, petitioners have filed Cr. Rev. no. 276 of 2016 before the learned Sessions Judge, Darbhanga against the order dated 26.04.2016 which has also been rejected by the 2nd Additional Sessions Judge, Darbhanga vide order dated 10.06.2016, hence, this petition.

The matter is found thoroughly investigated and decided by the co-ordinate Bench of this Court in *Vikarma Pal v. The State of Bihar & ors. 2016(1) PCCR 498* wherein it has been observed that infeasible right of the petitioner should not be treated to be withdrawn by way of filing of charge-sheet in case, petitioner had succeeded in availing the privilege. That means to say, while availing the privilege, petitioners have succeeded in getting the order.

That being so, the successive orders are set aside. Petition is allowed. The learned Lower Court is directed to accept the bail bond filed on behalf of petitioners.

(Aditya Kumar Trivedi, J.)

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