

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33202 of 2016

Arising Out of PS.Case No. -374 Year- 2011 Thana -SARAIYA District- MUZAFFARPUR

1. Nageshwari Devi wife of Late Payare Baitha

2. Rani Devi wife of Rajesh Baitha

Both are resident of village - Bahilwara Gobind, P.S.- Saraiya,
District - Muzaffarpur

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amrit Abhijat, Advocate

For the Opposite Party/s : Mr. Tarkeshwar Nath Thakur, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

4 14-09-2016 The petitioners seek pre-arrest bail in connection with Saraiya P.S. Case No.374 of 2011 registered under Sections 302 and 301/34 of the Indian Penal Code. Their prayer for grant of pre-arrest bail was earlier rejected by this Court vide order dated 28.3.2012 passed in Cr. Misc. No.12765 of 2012 on merits. Thereafter, suppressing the fact about filing an application for grant of pre-arrest bail, the petitioners have filed the present application under Section 438 of the Code of Criminal Procedure (for short 'CrPC') on 5th July, 2016 making statement in paragraph- 2 that the petitioners have not filed any other anticipatory or regular bail application before this Court in this matter. When the Registry pointed out about the earlier filing of



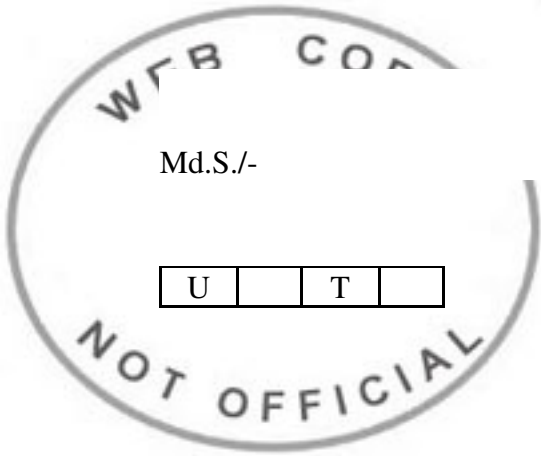
application under Section 438 of the CrPC, a supplementary affidavit was filed in this case seeking unconditional apology to this Court for false statement made on oath. A plea has been taken that due to lack of information about the earlier filing of application on behalf of the petitioners and its rejection by this Court, the same could not be stated in the main application.

2. Apparently, the plea of lack of knowledge or information about the earlier filing is false. The two petitioners had executed the Vakalatnama on the earlier occasion and again after lapse of more than four years, they have executed the Vakalatnama for grant of pre-arrest bail. The affidavit has been sworn by a family member, namely, Sanjay Baitha, the counsel appearing for the petitioners has also not made any effort to verify from the website of the Patna High Court regarding filing of application under Section 438 of the CrPC before filing the present application.

3. Though the matter is serious, considering the fact that the petitioners are ladies, the Court is taking a lenient view and is not ordering for any further action. However, the petitioners are warned to be truthful in future in filing any application before the court.

4. On merits, I see no reason to take a different view of

the matter and the application is dismissed.



Md.S./-

(Ashwani Kumar Singh, J)