

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34351 of 2016

Arising Out of PS.Case No. -436 Year- 2011 Thana -BETTIAH TOWN District-
WESTCHAMPARAN(BETTIAH)

- =====
1. Kiran Devi, Wife of Lalan Kumar,
 2. Ravi Ranjan Kumar, @ Ravi Ranjan Son of Raghaw Sharan @ Raghaw Sharan Prasad
 3. Lata Devi Wife of Raghaw Sharan @ Raghaw Sharan Prasad
 4. Raghaw Sharan @ Raghaw Sharan Prasad S/o Prahalad Prasad,
- All are Residents of Mohalla- Purani Gudari, Arya Samaj Road, P.S
Bettiah Town, District- West Champaran.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Ajeet Kumar, Advocate
For the State : Smt Indu Kumari Srivastava, APP

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

2 16-09-2016 I have heard learned counsel for the petitioners and the

State.

The petitioners apprehend their arrest in connection with

Bettiah Town P.S. Case No. 436 of 2011 registered for offences

punishable under Sections 341, 323, 313 and 504/34 of the Indian

Penal Code.

Learned counsel for the petitioners submits that the

petitioners earlier were released on bail but after charge-sheet was

submitted under Section 313 of Indian Penal Code which is non-

bailable offence, they now apprehend arrest. In support of his



submission learned counsel for the petitioners produced copy of the order passed by the Chief Judicial Magistrate concerned with respect to Bettia Town P.S. Case No. 436/2011 (G.R. No. 2960/2011. Let the copy of the same be kept on records. It appears that the case was registered under Sections 341, 323, 379, 504/34 of the Indian Penal Code. Thereafter, on 8.11.2011 an application was filed by the Investigating Officer for issuance of warrant of arrest against the F.I.R. named accused persons which was allowed on the same date. Thereafter, on 8.12.2011 the petitioners Kiran Devi, Lata Devi and co-accused Raghaw Sharan Prasad surrendered before the court below and sought regular bail which was allowed. The same was allowed with respect to petitioner Ravi Ranjan and co-accused Lalan Kumar also on the next date, i.e., 9.12.2011. Thereafter, charge-sheet has been submitted on 23.4.2015 adding Section 313 of Indian Penal Code.

It is stated that Section 313 of Indian Penal Code is exclusively triable by the court of Sessions, therefore, records were required to be transferred. Notice was issued to the accused persons for appearance on 13.8.2015. Such being the situation, the petitioners apprehend arrest.

In my view, such apprehension does not have any foundation as once bail was granted for non-bailable section, as

Section 379 of the Indian Penal Code was already there at the time when the bail was granted, if a section has been added in the case, though the matter has become triable by Sessions Judge it does not mean that the petitioners would be denied such privilege unless there is allegation of misuse etc.

With the aforesaid observation this application of anticipatory bail is disposed of directing the petitioners to appear before the court below without delay. In case the petitioners appear before the concerned court within six weeks then the court below shall consider his prayer and pass necessary order on the application of the petitioners in accordance with law keeping in view that it is well established that a person who is already on bail shall not be denied such privilege unless there is any allegations of misuse etc.

(Dr. Ravi Ranjan, J)

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