

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31146 of 2016

Arising Out of PS.Case No. -77 Year- 2014 Thana -BHAGALPUR GRP CASE District-
BHAGALPUR

- =====
1. Suman Kumar Son of Sadanand Mandal permanent Resident of village - Ganoura Baghalpur, P.S. - Nathnagar, District- Bhagalpur at Present residing at Nasratkhani, P.S. - Lalmatia (Nathnagar), District-Bhagalpur
 2. Vikash Chandra Singh @ Vikash Kumar Son of Shreekant Prasad Singh @ Anant Prasad Singh
 3. Raja Kumar @ Rupesh Kumar Son of Munilal Mandal @ Munilal Singh
 4. Rajiv Kumar Singh @ Rajiv Kumar Son of Rajendra Prasad Singh @ Rajenra Mandal All are Resident of Nasratkhani, P.S.- Lalmatia(Nathnagar), District- Bhagalpur

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Radha Raman Verma, Advocate
For the State : Mr. Jitendra Kumar Roy 1, APP

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

2 10-08-2016 Heard learned counsel for the petitioner and the State.

It is contended that the First Information Report was initially registered under sections 341, 323, 307, 353 and 504/34 of the Indian Penal Code. The petitioner were taken in custody and were released on police bail though one of the sections, i.e., 307 of the Indian Penal Code, was non-bailable, however, subsequently chargesheet was submitted by the police under sections 323, 341, 353, 444 and 504/34 of the Indian Penal Code. Cognizance was taken in the case and summons were issued against the petitioners. It is further contended that the petitioners



apprehended their arrest and, thus, they moved before the learned Sessions Judge for grant of anticipatory bail. The Sessions Judge, Bhagalpur, while disposing of A.B.P. No. 706 of 2016, directed the petitioners to surrender before the court concerned so that the matter does not linger for their appearance, however, the petitioners moved this Court for grant of anticipatory bail.

In my considered opinion, the issue is no longer *res integra* as a Single Judge Bench of this Court in **Mahendra Prasad Singh v. The State of Bihar(2004(4) PLJR 491)** has already considered and decided this issue holding that since the case was initially for non-bailable offences wherein the petitioner was taken into custody and then released on bail by the police, an application for grant of anticipatory bail on the ground that he has an apprehension of arrest in the same case was not maintainable under section 438 of the Code of Criminal Procedure.

Accordingly, this application stands disposed of holding that the anticipatory bail application will not be maintainable.

However, the petitioners must honour the terms of police bail and appear before the court concerned without any delay. In case the petitioners appear before the court concerned within a period of six weeks from today in Bhagalpur G.R.P.

P.S. Case No. 77 of 2014 then the court concerned shall consider their prayer for grant of bail in view of the well established principle that a person who is already on bail shall not be denied such privilege unless there is any allegation of misuse of bail.

(Dr. Ravi Ranjan, J)

SC/-

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