

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.679 of 2016

Arising Out of PS.Case No. -302 Year- 2015 Thana -GHOSI District- JEHANABAD

=====

1. Suggriv Yadav S/o Sri Yadunandan Prasad,
2. Santosh Kumar @ Santosh yadav, S/o Suggriv Yadav, Both r/o Village -
Nimia Bigha, P.S. - ghosi, District - Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Dharendra Kumar Sinha, Adv.

For the Opposite Party/s : Mr. Jharkhandi Upadhyay (App)

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 12-01-2016 By way of filing the present application under

Section 438 of the Code of Criminal Procedure, the petitioners
seek pre-arrest bail in connection with Ghosi P.S.Case No. 302 of
2015 registered under Section 304/34 of the Indian Penal Code.

It would be evident from the impugned order that
though the learned Additional Sessions Judge 1st, Jehanabad had
called for the case diary, the anticipatory bail application was
disposed of vide order dated 03.12.2015 in absence of the case
diary as the same was not sent to the court.

In my view, once the learned Additional Sessions
Judge 1st, Jehanabad had considered necessity of examining the
case diary for disposal of the anticipatory bail application of the
petitioners, he ought not to have disposed of the application in

absence of the case diary.

In that view of the matter, the order dated 03.12.2015 passed in A.B.P. No. 1229 of 2015/ 49 of 2015 is hereby set aside. The matter is remitted back to the learned Additional Sessions Judge 1st, Jehanabad to hear the anticipatory bail application afresh after calling for the case diary from the concerned Police Station.

Let it be recorded that I have expressed no opinion on the merits of the case.

The application stands disposed of.

(Ashwani Kumar Singh, J)

Pradeep/-

U		T	
---	--	---	--