

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25947 of 2016

Arising Out of PS.Case No. -345 Year- 2015 Thana -WEST CHAMPARAN COMPLAINT District-
WESTCHAMPARAN(BETTIAH)

- =====
1. Nabi Hassan Dewan son of Sadeek Dewan Resident of Village- Jamuniya, Vishambharpur, Police Station- Bettiah Muffasil, District- West Champaran.
 2. Khalil Dewan son of Nek Mohammad Dewan
 3. Raheem Dewan son of Nek Mohammad Dewan
 4. Sohrab Dewan son of Ramjan Dewan All are resident of Village- Psras Pakari, Police Station- Majhaulia, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Vakil Dewan son of Nek Mohammad Dewan Resident of Village- Psras, Police Station- Majhaulia, District- West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No.-7
For the Opposite Party/s : Mr. Satyavarat Verma, APP

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

2 13-07-2016 Heard the Counsel for the petitioners and the informant.

Petitioners seek anticipatory bail in Complaint Case No. 345C/2015 registered under Sections 436 and 302 of Indian Penal Code.

Prior thereto, a U.D case was lodged by the informant on 7.7.2012 (Annexure-5) in which nobody has been named as an accused. The police investigated the case and submitted final form whereby the case was found as a mistake of fact. The complaint-cum-protest petition was filed by the informant which was treated as a complaint and enquiry was made whereafter the Court took

cognizance under Section 436 of the Indian Penal Code. In such circumstances, the prayer for anticipatory bail was moved before the learned Sessions Judge which has been declined considering the judgment of this Court passed in **2015(3) PLJR 806**.

Counsel for the petitioners has submitted that the cognizance is taken under Section 436 IPC which is punishable with life imprisonment and is also triable by Court of Sessions. The learned Sessions Judge, in my view, did not correctly appreciate the judgment of this Court. Section 437(1)(i) of the Cr.P.C. states as under:-

“437(1)(i) such person shall not be released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life.”

Learned counsel for the informant has, however, resisted the prayer of the petitioner and submitted that the petitioners are accused of serious offence punishable under Section 436 IPC.

Considering the facts and circumstances of the case, I direct that in the event of arrest or surrender in the Court below within four weeks, the petitioners abovenamed are directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Sri N.P. Singh, Judicial Magistrate, 1st Class,

Bettiah, West Champaran in Complaint Case No. 345(C) of 2015 subject to the condition as laid down under Section 438(2) of the Cr.P.C. with the further following conditions:

(i) One of the bailers shall be the own/close family members of the petitioner.

(ii) In case of framing of charge, the petitioner shall appear in person on each and every date fixed in the Court below. In case of default in doing so on two consecutive occasions without any cogent/satisfactory reason, the Trial Court shall have liberty to cancel the bail bond of the petitioner and secure his arrest in accordance with law.

Pankaj/-

(Kishore Kumar Mandal, J)

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