

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43452 of 2016

Arising Out of PS.Case No. -2575 Year- 2010 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR



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1. Darweshwar Rai, son of late Yugal Rai.
 2. Mishri Lal Rai, son of Sukhdeo Rai.
 3. Rakesh Kumar Rai @ Rakesh Kumar @ Rakesh Rai. son of Krishnandan Rai.
 4. Kewal Rai, son of Jawahar Rai.
 5. Ganesh Rai, son of Krishnandan Rai.
 6. Mahesh Rai, son of late Yugal Rai. All are resident of Village- Patshama, P.S.- Gaighat, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sita Devi W/o- Gariban Rai R/o Village- Patshama, P.S.- Gaighat, District- Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Hans Lal Kumar
For the Opposite Party/s : Mr. Sri Abhay Kumar - 1

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

2 29-11-2016 Heard learned counsel for the petitioners as well as
learned Additional Public Prosecutor for the State.

Petitioners apprehend their arrest in connection with
C-2575 of 2010, Tr. No. 757 of 2016 registered under Section-380
& other minor sections of the Indian Penal Code.

The perusal of record goes to show that in a
complaint case, the inquiring court found a prima facie case under
Sections-354, 380 & other minor sections of the IPC against
petitioners and summonses were issued against them to procure

their attendance but due to their non-appearance, the concerned court issued warrant of arrest against them. A Division Bench of this court has already held that if, in a complaint case at first instance, summons is issued, then in that circumstance, the accused does not have apprehension of his arrest and the petition, filed u/S 438 of the Cr.P.C. is not maintainable.

In view of the aforesaid decision as well as facts and circumstances of the case, this petition stands dismissed being not maintainable.

However, if, petitioners surrender within four weeks from the date of receipt/production of copy of this order and, seek regular bail, the concerned court shall consider the regular bail application of the petitioners on its own merit without being prejudiced by this order.

(Hemant Kumar Srivastava, J)

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