

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.20445 of 2017**

Arising Out of PS.Case No. -5 Year- 2017 Thana -MEHDIGANJ District- PATNA

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1. Sanjay Kewat, S/o Late Sitaram Kewat,  
2. Arti Devi @ Munni Devi, W/o Sanjay Kewat, Both are resident of  
Daldaliganj, P.S.- Mehandiganj, District- Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Bam Bahadur Jha, Advocate  
Mr. Sushil Kumar Jha, Advocate

For the Opposite Party/s : Mr. Sri Manoj Kumar – 1 APP

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**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**and**  
**HONOURABLE MR. JUSTICE SUDHIR SINGH**  
ORAL ORDER  
(Per: HONOURABLE THE CHIEF JUSTICE)

2      02-05-2017                      While disposing of CWJC No.2264 of 2017  
  
(Umashankar Prasad Advocate Civil Court, Patna v. The State of  
Bihar & Ors.) on 21.02.2017, this Court observed as under:-

“It is further directed that all applications for  
anticipatory or regular bail arising out of the  
Mehandiganj P.S. Case No.28 of 2015;  
Mehandiganj P.S. Case No.35 of 2016;  
Mehandiganj P.S. No.2 of 2017 and Mehandiganj  
P.S. Case No.5 of 2017 will be listed before this  
Bench only.”



The import of the aforesaid order is that whenever anticipatory or regular bail is filed in the High Court, the same has to be heard by Division Bench No.I. However, this order does not mean that the accused persons do not have the rights available under Sections 437, 438 and 439 of the Code of Criminal Procedure to move before the concerned lower Court for grant of bail. It seems that there is some confusion in interpreting the aforesaid order. We clarify that the accused persons have a right to move before the concerned lower Court for grant of bail and thereafter, if any adverse order is passed, they will have the liberty to move the High Court and when the matter is placed before the High Court, the same shall be placed before Division Bench No.-I. The concerned lower Court is directed to consider the bail application of the accused persons and take a decision in accordance with law and thereafter liberty shall be available to the petitioners to approach this Court.

The order dated 21.02.2017 passed in CWJC No.2264 of 2017 is modified to that extent with regard to all the cases arising out of Mehandiganj P.S. Case No.28 of 2015; Mehandiganj P.S. Case No.35 of 2016; Mehandiganj P.S. No.2 of 2017 and Mehandiganj P.S. Case No.5 of 2017.



The petition stands disposed of with the aforesaid observations.

**(Rajendra Menon, CJ)**

**(Sudhir Singh, J)**

Sunil/-

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