

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 46117 of 2016

Arising Out of PS.Case No. -297 Year- 2016 Thana -SIWAN CITY District- SIWAN

- =====
1. Jai Kishun Turha @ Jai Kisun Sah, S/o Late Gauga Sah.
 2. Rajendra Turha @ Rajender Sah S/o Late Daroga Sah, Both residents of Jalalpur Hata, P.S. - M.H. Nagar, District - Siwan.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 22-03-2017

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners seek bail in Siwan Town P.S. Case No.
297 of 2016 dated 15.04.2016 instituted under Sections
147/148/149/188/153A/295/295A/353/307/332/333/427/435/109/120B
of the Indian Penal Code.

3. This is the second attempt of the petitioners for bail as
earlier such prayer was rejected by order dated 15.06.2016 in Cr. Misc.
No. 25287 of 2016.

4. Learned counsel for the petitioners submitted that after
the order of rejection, two similarly situated accused namely, Ajay
Prasad and Rajesh Kumar, have been granted bail by a co-ordinate



Bench of this Court on 24.06.2016 in Cr. Misc. No. 25221 of 2016. The Court would only like to observe that the co-ordinate Bench was persuaded on the stand taken on behalf of the said petitioners which is recorded as under:

“Petitioners are said to be owner of D.J. sound system which had been played at the time of procession of Ramnawmi. The claim of the prosecution is that members of both community pelted stones on each others as well as police officials but it is surprising enough that members of only one community were made accused in this case. Moreover, no specific overt-act has been attributed against the petitioners, who are languishing in jail custody since long.”

5. The above observation is the contention recorded on behalf of the said petitioners before the Court which appears to be totally incorrect, inasmuch as 9 members of one community and 22 of another community were made accused. The Court is constrained to observe that a patently false submission was made before the Court by Mr. Vijay Kumar Mishra, learned counsel for the petitioners in Cr. Misc. No. 25221 of 2016. The situation is worse in view of the fact that Mr. Kanhaiya Kishore, learned A.P.P. also do not point out the correct position before the Court. Such position is really unfortunate where learned counsel, who are officers of the Court, try to obtain an order based on submissions which are totally wrong on facts and learned counsel who are supposed to represent the State also keep quiet and do



not point out the falsity submitted before the Court. Such being the position and also the fact that the order passed by this Court dismissing the bail application of similarly situated co-accused i.e., the present petitioners, prior to the order passed by the co-ordinate Bench and such order not being brought to the notice of the co-ordinate Bench, this Court does not find that the present petitioners can take any advantage of the same.

6. In view thereof and also taking into account the reasons recorded in the earlier order dated 15.06.2016 in Cr. Misc. No. 25287 of 2016, as also the fact that except for efflux of time, no mitigating circumstances after the passing of the order dated 15.06.2016, having been brought to the notice of the Court, no case is made out to grant bail to the petitioners.

7. Accordingly, the application stand dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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