

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24666 of 2017

Arising Out of PS.Case No. -212 Year- 2011 Thana -MANIGACHI District- DARBHANGA

- =====
1. Safi Ahmad @ Md. Safi Ahmad, Son of Late Hafiz Md. Sulaiman.
 2. Kamaluddin, Son of Safi Ahmad @ Md. Safi Ahmad.
 3. Jamaluddin, son of Safi Ahmad @ Md. Safi Ahmad,
 4. Majda Khatoon @ Sajda Khatoon, Wife of Safi Ahmad @ Md. Safi Ahmad, All resident of Village- Chotka Balua, P.S.- Manigachhi, Distt.- Darbhanga.

.... Petitioners

Versus

The State of Bihar.

.... Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr. Jawed Gaffar Khan, Advocate

For the Opposite Party/s : Mr. Sri Damodar Prasad Tiwary. APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2. 12-06-2017

Heard Sri Jawed Gaffar Khan, learned counsel

for the petitioners and Sri Damodar Prasad Tiwary, learned
Additional Public Prosecutor for the State.

The petitioners are seeking Anticipatory Bail
in connection with Manigachhi P.S. Case No. 212 of 2011
for offences under Sections 341, 323, 314, 504, 34 of the
Indian Penal Code along with amended Section 302 of the
Indian Penal Code.

The facts of the case would reveal that this
case was registered on 21.11.2011, and thereafter all the
petitioners were granted bail by learned Chief Judicial
Magistrate, Darbhanga, saying that the offences alleged



against them are bailable. Later on, police completed investigation and final form was submitted. However, vide Annexure-4, the learned Chief Judicial Magistrate took cognizance of the offence saying that there is no sufficient material for the offence under Section 302 IPC and hence cognizance was not taken against the said Section. This order was challenged in revision and the same was set aside by learned Additional District Judge, Darbhanga, and thereafter, cognizance has been taken under Section 302 IPC along with other provisions. In these circumstances petitioners are seeking Anticipatory Bail at this stage.

Learned counsel for the petitioners would submit that the cognizance under section 302 IPC is bad and for this reason the petitioners may be taken in custody.

Learned Additional Public Prosecutor opposes the prayer for Anticipatory Bail of the petitioners and submits that the present Anticipatory Bail application would not be maintainable as the petitioners have already surrendered earlier and obtained regular bail, therefore, in facts and circumstances they should abide by the conditions of the bail bond and should submit themselves before the court below.



Learned counsel for the petitioners further submits that Annexure-8 is the fardbeyan of one Sonu Alam, who is the nephew of the deceased and he has stated that his uncle Md. Isha died due to falling down from the roof.

Considering the fact that petitioners have earlier surrendered in the court below and are on regular bail, this Court is of the opinion that after cognizance has been taken, the petitioners are bound to abide by the conditions of the bail bond and should surrender and seek regular bail in accordance with law.

With this observation and direction, this application stands rejected.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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

