

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50880 of 2017

Arising Out of PS.Case No. -45 Year- 2016 Thana -SAHODARA District-
WESTCHAMPARAN(BETTIAH)

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1. Jai Prakash Mahto, S/o Late Bandhu Mahto, R/o Ghogwaliya, P.S.-
Sahodra, District- West Champaran.

2. Rakesh Gauro @ Rakesh Mahto, S/o Shankar Gauro, R/o Village-
Parsanda, P.S.- Sahodra, District- West Champaran.

.... Petitioners

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Satya Nand Shukla, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

2 10-11-2017 Heard learned counsel for the petitioners and learned
counsel for the State.

The petitioners seek pre-arrest bail in connection
with Tr. No.2775 of 2016 arising out of Sahodara P.S. Case No.
45 of 2016 registered under Sections 341, 323, 308 and 504 read
with 34 of the Indian Penal Code.

It is submitted by the learned counsel for the
petitioners that save and except Section 308 of the Indian Penal
Code, other sections are bailable in nature. It is submitted that on



the allegations made in the first information report, it would be manifest that ingredients of the offence under Section 308 of the Indian Penal Code are also not attracted.

On the other hand, learned counsel for the State submitted that since the petitioners had furnished bond pursuant to the notice issued under Section 41-A of the Cr.P.C., the instant application under Section 438 of the Cr.P.C. would not be maintainable.

In reply, learned counsel for the petitioners submitted that issuance of notice to appear under Section 41-A(i) of the Cr.P.C. or compliance of terms of such notice or undertaking to comply with the terms of notice would not render any person to be in police arrest or police bail disentitling him from invoking provision under Section 438 of the Cr.P.C. In support of his submission, he has placed reliance on a decision of this Court in **Gauri Shankar Rai vs. State of Bihar [(2015) 3 PLJR 618]**.

Regard being had to the facts and circumstances of the case and submissions made on behalf of the parties, in the event of arrest or surrender in the court below within six weeks from today, the petitioners are directed to be released on bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with



two sureties of the like amount each to the satisfaction of the learned S.D.J.M., Bettiah, West Champaran in connection with Tr. No.2775 of 2016 arising out of Sahodra P.S. Case No. 45 of 2016 subject to the conditions as laid down under Section 438(2) Cr. P.C.

(Ashwani Kumar Singh, J.)

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