

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36559 of 2018

- =====
1. Nand Lal Paswan @ Nandlal Ram son of Shiv Pujan Paswan resident of village - Kewrahi, Police Station Kudra, District Kaimur (Bhabhua), Bihar.
 2. Deepak Kumar son of Kapil Paswan resident of village Chanawakh, Police Station - Kudra, District - Kaimur (Bhabhua), Bihar.
 3. Anup Kumar son of Nibodhak Baitha resident of village Banauli, Police Station Chenari, District - Rohtas, Bihar.
 4. Sita Devi wife of Kanhaiya Ram resident of village Gamharia, Police Station Agarar, District Rohtas, Bihar.
 5. Hareram Ram @ Hareram Prasad son of Shubhag Ram resident of village Gamaharia, Police Station Agarar, District Rohtas, Bihar.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shyam Narayan Pandey, Adv.

For the Opposite Party/s : Mr. Sri Mukesh Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 31-10-2018 Heard learned counsel for the petitioners and learned counsel for the State.

This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioners for modification of the order dated 19.01.2018 passed in Cr.Misc. No. 1351 of 2018 to the extent of extending the period of surrender of the petitioners in the court below.

By order dated 19.01.2018 passed in Cr.Misc. No. 1351 of 2018, the petitioners were granted pre-arrest bail in connection with Kudra P.S.Case No. 11 of 2017. The operative part of the



order reads as under :-

“... 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 Chief Judicial Magistrate, Kaimur at Bhabua in connection with Kudra P.S. Case No. 11 of 2017 subject to the conditions as laid down under Section 438(2) Cr.P.C.”

It is submitted by the learned counsel for the petitioners that the petitioners are illiterate persons and they used to earn their livelihood by working as labour in Punjab. The order was not communicated to them in time and, thus, they failed to surrender before the court below within the stipulated period of six weeks. He contended that the delay caused in appearing before the court was neither deliberate nor willful.

Learned counsel for the State opposed the application for modification of the order.

I have heard learned counsel for the parties and perused the record.

This application for modification has been filed by the petitioners on 22.06.2018, i.e. after more than five months of the



order granting them pre-arrest bail whereby they were directed to appear before the court within six weeks and furnish bail bond with two sureties. The address given in the bail petition is of different villages of Kaimur district in the State of Bihar. Even in the present application, their address is of Kaimur district in the State of Bihar. There is nothing to show that the petitioners were working in Punjab. Neither any certificate of employment nor any railway ticket to show that they were working in Punjab and they have come back to Bihar after the order was passed by this Court has been annexed to this petition.

In that view of the matter, I am not persuaded to modify the order passed earlier by this Court on 19.01.2018. The application is rejected.

However, in case, the petitioners surrender and pray for bail within three weeks from today before the jurisdictional Magistrate, he shall dispose of the same taking into consideration the fact that the case of the petitioners was found fit for grant of pre-arrest bail by this Court.

(Ashwani Kumar Singh, J)

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