IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30327 of 2018

Arising Out of PS. Case No.-249 Year-2017 Thana- KHUSRUPUR District- Patna

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1. Santosh Yadav @ Santosh Don @ Balmiki Prasad, S/o Late Birendra Prasad, Resident of village - Pachrukhiya, P.S.- Khushrupur, District- Patna.
2. Nikku Kumar @ Pinku Kumar @ Pikku Kumar @ Mintu Kumar ,
3. Minku Kumar @ Minku @ Mikku Kumar
Both Sons of Bishwanath Prasad @ Bishwanath Yadav, resident of Village – Pachrukhiya , P.S.- Khushrupur, District- Patna.

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Sri Rajeev Kumar, Advocate

For the Opposite Party/s : Sri Vinod Shankar Modi, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

5 29-08-2018 Heard Sri Rajeev Kumar, learned counsel for the petitioners and Sri Vinod Shankar Modi, learned Additional Public Prosecutor.

Three petitioners, apprehending their arrest in connection with Khushrupur P.S. Case No. 249 of 2017 registered for the offence under Sections 399/402 of the Indian Penal Code, 1860 , Sections 25 (1-B) a /26/35 of the Arms Act, 1959 read with Section 37 (c) of the Bihar Prohibition and Excise Act, 2016, have prayed for grant of bail in the event of their arrest or surrender.

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On 25.07.2018, while the present anticipatory bail petition was being heard, on the prayer of learned counsel for the petitioners it was adjourned to enable him to file supplementary affidavit since it was argued by learned counsel for the petitioners that after petitioners were made accused in the present case, they have been made accused in number of other cases.

Learned counsel for the petitioners intended to file supplementary affidavit. On being asked as to whether petitioners have been made accused in cases mentioned in paragraph no. 3 of the petition after lodging of the present case, he accepted that petitioners were made accused earlier prior to lodging of the present case , however, a plea has been taken that since petitioners have not transferred the land to the Police Officer as per his wishes, repeatedly, since 2014, they are being made accused in number of cases.

Fact remains that as per statement made in paragraph no. 3 of the petition all the petitioners are having criminal antecedent and they are accused in number of cases relating to serious offences. I am of the opinion that Section 438 of the Code of Criminal Procedure, 1973 is not meant for such accused.

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The prayer for grant of anticipatory bail stands dismissed.

praful/- **(Rakesh Kumar, J)**

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