

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48969 of 2017

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1. Shambhu Prasad, S/o Hirabaya Narayah,
 2. Suraj Kumar S/o Sudhir Kuamr,
 3. Sudhir Kumar S/o Chandeshwar Bhatiya,
 4. Madhav Prasad @ Madho Prasad @ Navin Kumar Singh, S/o Ambika Prasad.

All 1 to 4 are Residing at Village- Fulsather, P.S.- Kurtha, District-
Arwal.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhay Kumar

For the Opposite Party/s : Mr. Sri Suresh Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 03-01-2018

The present application has been filed for modification of the order dated 18.12.2012 passed in Cr. Misc. No. 41445 of 2012 for extending the period for furnishing bail bonds since the petitioners were granted anticipatory bail vide order dated 18.12.2012 in a case registered for the offences punishable under Sections 147, 148, 379, 323, 325 and 384 of the Indian Penal Code.

It is submitted by learned counsel for the petitioners that, though, the petitioners were granted anticipatory



bail vide order dated 18.12.2012 passed in Cr. Misc. No. 41445 of 2012, as contained in Annexure-1. The order dated 18.12.2012 was communicated to the learned Court below on 24.12.2012 but prior to that the charge-sheet was submitted under bailable provisions of the IPC and the petitioners were taken into police custody on 29.11.2012 and thereafter released on police bail, but differing with the final form the learned Court below took cognizance under non-bailable provisions of the IPC.

Considering the fact that prior to reaching of anticipatory bail order to the learned Court below the petitioners were arrested by the police and released on bail, now the anticipatory bail is not maintainable in view of the ratio laid down in the case of Mahendra Prasad Singh Vs. State of Bihar, reported in 2004(3) PLJR, 491.

Since the petitioners were granted anticipatory bail on merits, it is expected from the learned Court below to consider their prayer for bail, if the petitioners surrender before the learned Court below within a period of six weeks from today in connection with Kurtha P.S. Case No. 78 of 2012 pending in the Court of learned Chief Judicial Magistrate, Arwal. It is expected from the learned Court below to dispose of the bail application of the petitioners preferably on the same day.



Accordingly, this modification application is
disposed of.

(Dinesh Kumar Singh, J)

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