

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7383 of 2019

Arising Out of PS. Case No.-139 Year-2015 Thana- EKMA District- Saran

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1. Deepak Rai Son of Late Ramashankar Rai, Resident of Village- Tilwa, P.S.- Rewatipur, Distt.- Gajipur (U.P.)
 2. Rekha Devi @ Rekha Rai Wife of Deepak Rai, Resident of Village- Tilwa, P.S.- Rewatipur, Distt.- Gajipur (U.P.).

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Nawal Kishore Singh, Advocate

For the Opposite Party/s : Mr.Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 15-02-2019 Heard learned counsel for the petitioners and learned
APP for the State.

Petitioners in the present case are seeking anticipatory bail in connection with Ekma P.S. Case No. 139 of 2015 registered for the offences punishable under Sections 498(A) of the Indian Penal Code and Sections 3/4 of D.P. Act.

Learned counsel for the petitioners has brought to the notice of this Court the order dated 26.08.2016 passed in A.B.P. No. 2115 of 2016 by learned Sessions Judge, Saran whereby these two petitioners along with others have been granted privilege of anticipatory bail and it was observed in the bail order that in the event of their arrest or surrender before the court concerned within a period of one month from the date of



order the petitioner shall be released on bail on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount.

Despite the aforesaid position when the petitioners failed to surrender within stipulated period, a fresh anticipatory bail application was filed giving rise to A.B.P. No. 4430 of 2018 which has been held to be not maintainable.

In the opinion of this Court, the learned Additional Sessions Judge, VIIIth, Saran at Chapra has rightly taken a view that the prayer for anticipatory bail was not maintainable.

In the given facts and circumstances of the case, this Court finds that even filing of the present application before this Court is not just and proper. The petitioners were already granted privilege of anticipatory bail but they could not surrender within the given period of one month, they were required to file a proper application in the court below itself for extension of time showing sufficient and good reasons for not surrendering within the given period.

If the learned Sessions Judge, Saran at Chapra would be satisfied with the reasons given by the petitioners, the only order required to be passed would be an extension of time, there is no question of considering a fresh application for anticipatory bail.



At this stage, learned counsel for the petitioners submits that he seeks permission to withdraw this application with liberty to file an appropriate application before the court of learned Sessions Judge, Saran at Chapra seeking extension of time to surrender pursuant to the order dated 26.08.2016.

Permission is granted.

The petitioners may file an appropriate application before the court of learned Sessions Judge, Saran at Chapra within a period of three weeks from the date of receipt of a copy of this order. If such application is filed the same shall be considered by the learned Sessions Judge, Saran at Chapra on its own merit. This Court has restrained itself from going into the merit of the contentions for that purpose.

Thus, disposal of this application shall in no way prejudice the case of the petitioners.

(Rajeev Ranjan Prasad, J)

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