

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30690 of 2019

Arising Out of PS. Case No.-252 Year-2007 Thana- PURNEA SADAR District- Purnia

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1. Jai Prakash Agrawal @ Pappu Agrawal, aged-59 years, male, Son of Late Hari Prasad Agrawal Resident of Village - Farbesganj, P.S.- Farbesganj, Distt.- Araria.
 2. Raja Ram Bhagat, aged-61 years, male, Son of Bishwanath Bhagat, Resident of Village - Farbesganj, P.s.- Farbesganj, Distt.- Araria.
 3. Shyam Kumar Singh @ S.K. Singh, aged-57 years, male, Son of Late Bindeshwari Prasad Singh, Resident of Village- Farbesganj, P.S.- Farbesganj, Distt.- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Adv.
Mr. D.N. Tiwari, Adv.

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 17-07-2019 The petitioners seek bail in anticipation of their arrest in connection with Sadar (Dagarua) P.S. Case No. 252 of 2007, dated 14.07.2007, instituted for the offences under Sections 419, 420, 465, 467, 468 and 471 of the Indian Penal Code and Section 81 of the Value Added Tax Act, 2005.

2. The petitioner Nos. 1, 2 and 3 are the partners of M/s Bengal Fertilizers and Chemicals.



3. A truck was seized loaded with fertilizers, which did not have the clearance and the stamp of Commercial Taxes Department of the check-post of either Bengal or Bihar. The truck as well as the fertilizer was seized in the presence of the two independent witnesses.

4. Mr. N.K. Agrawal, learned Senior Advocate for the petitioners has submitted that the fertilizer is a controlled commodity, but the F.I.R. was lodged and seizure effected only because of the bags of fertilizer not reflecting the stamp of Commercial Taxes Department of the two States. Considering the aforesaid aspects of the matter, the petitioners were granted anticipatory bail way-back in the year 2008, *i.e.*, on 17.03.2008 in Cr. Misc. No. 994 of 2008, with the condition that they ought to surrender before the Court below within a period of four weeks from the date of passing of the order. The petitioners could not surrender before the Court below within the specified time and sought modification of the order of bail seeking extension of time for surrendering before the Court below. Such prayer was allowed by the Bench *vide* order dated 25.06.2008 passed in



Cr. Misc. No. 17127 of 2008.

5. It has been submitted on behalf of the petitioners that thereafter, because of lack of communication between the petitioners and their lawyer, they did not surrender before the Court below. Perhaps, there was a misconception in the mind that with the modification of the order, the petitioners were not required to surrender at all and that the bail order has been made absolute.

6. The aforesaid ground made on behalf of the petitioners for not surrendering before the Court below within the extended period of time does not appear to be acceptable to this Court.

7. In any view of the matter, the petitioners have again approached this Court in the year 2018 *vide* Cr. Misc. No. 60846 of 2018, seeking further extension of time. This Court, hearing the aforesaid petition, declined to modify the earlier order and by order dated 05.11.2018 rejected the prayer of the petitioners. En passant, it was observed that if the petitioners applied afresh before the Court below for grant of anticipatory bail, such petition would be considered



on its own merits by the Court below without being prejudiced by this background of the petitioners not surrendering before the Court below within the time prescribed by this Court.

8. Pursuant to the aforesaid order dated 05.11.2018, the petitioners preferred a petition before the Court below afresh seeking anticipatory bail, which has been rejected.

9. Hence, the present petition.

10. There has not been any change in the stage of the case except for the passage of number of years. Though the explanation offered by the petitioners for their not surrendering before the Court below and approaching this Court after such a long time is not worth accepting; rather cringeworthy, but taking into account the fact that in a case of such kind, it would serve no useful purpose in asking the petitioners to surrender before the Court below after such a long passage of time.

11. The petitioners, under the aforesaid circumstances, are directed to surrender before the learned



Court below positively within a period of four weeks from today, when they would be released on bail on their furnishing bail bonds of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Purnea, in connection with Sadar (Dangarua) P.S. Case No. 252 of 2007, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

12. This would subject to the condition that the petitioners shall present themselves before the Court below, as and when required, and if they fail to appear before the Court below for three consecutive occasions, without any plausible reason or prior permission of the Court, it would entitle the prosecution or the Court to proceed for cancellation of their bail.

13. With the aforesaid observation/direction, the application stands allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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