

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38882 of 2019

Arising Out of PS. Case No.-11 Year-2019 Thana- RUNISAIDPUR District- Sitamarhi

1. Chhotan Baitha, Son of Israil Baitha, Resident of Village- Manik Chowk, P.S.- Runni Saidpur, Dist. Sitamarhi.
2. Tajmoon Khatoon, Wife of Chotan Baitha, Resident of Village- Manik Chowk, P.S.- Runni Saidpur, Dist. Sitamarhi.

... .. Petitioners

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Vaidehi Raman Prasad Singh, Advocate
For the Informant : Mr. Uday Kumar, Advocate
For the Opposite Party/s :

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 20-09-2019 Heard learned counsel for the petitioners and learned counsel representing the informant.

Petitioners in the present case are seeking anticipatory bail in connection with Runni Saidpur P.S. Case No. 11 of 2019 registered for the offences punishable under Sections 363 and 366 of the Indian Penal Code.

Petitioners in the present case are the uncle and aunt of one Mohammad Phool Babu. As per the First Information Report, on 05.01.2019 the said Mohammad Phool Babu had come to the house of the informant along with many other persons, name of those persons are not disclosed in the F.I.R. It is alleged that Mohammad Phool Babu called the daughter of



the informant and then he took her away on her motor bike. It is thereafter alleged that on 08.01.2019 i.e. the date on which the F.I.R. was lodged, the informant had gone to the house of the co-accused to lodge a complaint against the daughter of the informant had not come back but when she reached there the co-accused abused her and were eager to enter into scuffle.

Learned counsel for the petitioners submits that the petitioners being the co-sharer of the father of said Mohammad Phool Babu are living separately in mess and room. It is further submitted that the five other co-accused persons have been granted privilege of anticipatory bail by a learned Co-ordinate Bench of this Court in Cr. Misc. No. 39505 of 2019.

Learned counsel for the informant submits that in view of the judgment of Hon'ble Supreme Court in the case of **Lavesh Vs. State (NCT of Delhi)** reported in **(2012) 8 SCC 730**, since the petitioners are absconding and process under Sections 82 and 83 Cr.P.C. have been taken out against them, the prayer for anticipatory bail be not entertained.

Considering the facts and circumstances of the case, where this Court finds that the present case was lodged on 05.01.2019, these petitioners are uncle and aunt of the main accused Mohammad Phool Babu and it is their submission that



they are living separately as also that similarly situated co-accused have been granted privilege of anticipatory bail by a learned Co-ordinate Bench of this Court, when this Court goes through the judgment of Hon'ble Supreme Court it is noticed that what has been held by Hon'ble Supreme Court in Paragraph '12' of the judgment starts with the word 'normally', therefore, this Court finds that the present case would fall in the exceptional category as there is no inordinate delay on the part of the petitioners in seeking their statutory remedy of anticipatory bail. This is not one of those cases wherein accused have remained absconding for years and years together and thereafter the protection of anticipatory bail is being sought for.

The circumstances being such that this Court is willing to extend the privilege of anticipatory bail to the petitioners, let the petitioners in the event of their arrest or surrender within a period of four weeks from today, be enlarged on bail on furnishing of bail bonds of Rs. 15,000/- (fifteen thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Runni Saidpur P.S. Case No. 11 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. i.e.



(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

(Rajeev Ranjan Prasad, J)

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