

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.5662 of 2020**

Arising Out of PS. Case No.-68 Year-2016 Thana- ADHAOURA District- Kaimur (Bhabua)

1. LAXMAN PRASAD JAISWAL @ LAKSHUMAN PRASAD JAISWAL S/O Kamta Sah R/o Village Adhaura, P.S.- Adhaura, District Kaimur at Bhabhua.
2. Lallu Miya @ Lalu Miyan Son of Kalam Miya R/o Village Adhaura, P.S. Adhaura, District Kaimur at Bhabhua.
3. Sipahi Chauhan Son of Late Shivnath Chauhan R/o Village Jharapa, P.S. Adhaura, District Kaimur at Bhabhua.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Tribhuwan Narayan, Adv.

For the Opposite Party/s : Mr.Damodar Prasad Tiwary, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

6 27-08-2020 Heard learned counsel for the petitioners and Mr. Damodar Prasad Tiwary, learned APP for the State.

The petitioners in the present case are seeking pre-arrest bail in connection with Adhaura P.S. Case No.68 of 2016 registered for the offences punishable under Sections 143, 341, 379, 504, 447 and 353 of the Indian Penal Code.

Learned counsel for the petitioners submits that these petitioners have been made accused alleging that they were among the persons who had taken away forest produce kept on the pickup van which was seized by the forest personnel. However, in course of investigation no material at all has come



by way of any independent evidence to support the allegations. It is submitted that thrust of the allegations are against one Amarnath Singh. It is also submitted that earlier the petitioners were not arrested in view of the petty nature of the allegations and police had obtained bond from them during course of investigation but now that police has submitted a charge-sheet, the petitioners have apprehension that on putting appearance in the learned court below they may be taken into custody. It is for this reason that they have moved this Court seeking pre-arrest bail.

Mr. Damodar Prasad Tiwary, learned APP for the State has though opposed the prayer for anticipatory bail of the petitioners initially saying that these petitioners are on police bail but very soon he realised that the police bail is different from a bond and in this case the petitioners were called upon to execute a bond only which they have done. In such circumstance in view of the judicial pronouncements of this Court in the case of Mahendra Prasad Singh Vs. State of Bihar reported in 2004(3) PLJR 491 it cannot be said to be a case of police bail.

At this stage, learned counsel for the petitioners cited a judgment of this Court in the case of Gauri Shankar Rai Vs.



State of Bihar reported in 2015(3) PLJR 618 (HC) in which learned coordinate Bench of this Court has held that where an accused has been given benefit of Section 41A and has been made to execute personal bond only in course of investigation he may maintain an application for anticipatory bail.

Having regard to the facts and circumstances of the case wherein this Court has noticed that the thrust of the allegations are against co-accused Amarnath Singh and so far as these petitioners are concerned, though they are named in the FIR, but no independent evidence has come in course of investigation so as to identify them in connection with this case as also that it is submitted that petitioner no.2 is a totally differently abled person and further that they were earlier left on bond, let the petitioners above named in the event of their arrest or surrender within a period of four weeks from today in connection with Adhaura P.S. Case No.68 of 2016 be released on bail on furnishing bail bonds of Rs. 25,000/- (Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-VI, Kaimur at Bhabhua, subject to the conditions 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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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

