

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20614 of 2020**

Arising Out of PS. Case No.-430 Year-2018 Thana- FALKA District- Katihar

1. Niraj Das @ Niraj Bharti Son of Ganga Das Resident of Village - Khairpur Sobganj, P.S.- Kharik, Distt.- Bhagalpur.
2. Manoj Das @ Manok Kr. Das Son of Ganga Das Resident of Village - Khairpur Sobganj, P.S.- Kharik, Distt.- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dilip Kumar

For the Opposite Party/s : Mr.Ajay Kumar No. 2

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER**

2 21-07-2020 The Court proceeding has been conducted

through virtual mode.

Since the physical court proceeding is non-functional due to the present pandemic COVID-19, the matter is listed with defects.

Learned counsel for the petitioners undertake to remove the defects within three weeks of the resumption of the physical Court proceedings.

In case of non-removal of the defects, the



office shall place the matter before the bench.

Heard learned counsel for the petitioners and learned counsel for the State.

The petitioners are apprehending their arrest in a case registered for the offence punishable under Section 379 of the Indian Penal Code, 1860, however subsequently Section 392 I.P.C was also added.

The prosecution case as per the written report of Sushil Thakur submitted to the S.H.O., Falka Police Station is to the effect that on 31.10.2018, the informant was bringing grains on the tractor when unknown persons robbed the tractor loaded with grains, leading to registration of the F.I.R against unknown. The name of the petitioner sprang up during investigation on the statement of co-accused Sonu.

It is submitted by learned counsel for the petitioners that except confessional statement of co-accused Sonu with whom there is enmity, no material collected during investigation against the petitioners.



There is no recovery from the possession of the petitioners. A statement has been made in para 3 of the petition that petitioners are not having any criminal antecedent.

Learned counsel for the State submits that name of the petitioners sprang up during investigation on the confession of the co-accused Sonu.

Considering the fact that the name of the petitioners sprang up on confession of co-accused before police, there is no recovery from the possession of the petitioners and statement being made in para 3 that petitioners are not having any criminal antecedent, let the petitioners, above named, in the event of their arrest or surrender before the Court below within a period of six weeks, be released on provisional anticipatory bail for a period of three months on furnishing one surety to the satisfaction of learned A.C.J.M.-V, Katihar in connection with Falka P.S. Case No. 430 of 2018, subject to the conditions as laid down



under Section 438(2) Cr.P.C.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioners which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs. 10,000/-(ten thousands) each with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-V, Katihar in connection with Falka P.S. Case No. 430 of 2018 including one surety given at the time of provisional bail.

The learned Court below will be at liberty to further extend the period of provisional bail if the Court proceeding in physical mode will not resume in next



three months.

However, the grant of bail will not give liberty to the petitioners not to cooperate in the investigation.

Accordingly the present application stands disposed of.

(Dinesh Kumar Singh, J)

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